

Women's **Policy Group NI**

WPG Response to Hate Crime Legislation Review Consultation

28th March 2022

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1. Introduction

The WPG is a platform for women working in policy and advocacy roles in different organisations to share their work and speak with a collective voice on key issues. It is made up of women from trade unions, grassroots women's organisations, women's networks, feminist campaigning organisations, LGBT+ organisations, migrant groups, support service providers, NGOs, human rights and equality organisations and individuals. Over the years this important network has ensured there is good communication between politicians, policy makers and women's organisations on the ground.

The WPG uses our group expertise to lobby to influence the development and implementation of policies affecting women. The WPG is endorsed as a coalition of expert voices that advocates for women in Northern Ireland on a policy level. This group has collective expertise on protected characteristics and focus on identifying the intersectional needs of all women; in line with international human rights mechanisms.

The organisations represented in this response have extensive experience and expertise through working with a range of groups impacted by the upcoming legislation including; women, girls, trans men, non-binary people, disabled people, bisexual and lesbian women, victims of domestic abuse, victims of rape and sexual assault, rural women, those with dependents, migrant women and more. All of these groups mentioned are set to benefit from the updated hate crime legislation if it adequately takes the concerns of these groups into account.

As the Women's Resource and Development Agency is the Secretariat for the Women's Policy Group, as well as the Lead Partner in the Raise Your Voice Project, this is a joint WPG response with WRDA and Raise Your Voice.

Women's Resource and Development Agency (WRDA):

WRDA is a feminist membership organisation that was established in 1983. WRDA's work covers lobbying, policy, Good Relations, health promotion and training. WRDA's vision is of a fair and equal society where women are empowered and are a visible force for change and influence in all areas of life. We take a participative, grassroots approach to this work – all women have the

right to be involved in policy decision-making and we aim to amplify the voices of the women who engage with the women's sector.

Raise Your Voice (RYV):

Raise Your Voice is a project that seeks to tackle sexual harassment and violence in communities across Northern Ireland. Our goal is to create true cultural change in order to tackle the root causes of these behaviours and empower people to act to change this in their own lives.

Women's Platform

Women's Platform is a membership organisation working to promote the implementation of international human rights standards in Northern Ireland, and acts as the link between the women's sector in Northern Ireland and the international level, including the UN.

HERe

NI:

HERe NI (previously LASI), established in 2000, is a regional organisation that works across all areas of Northern Ireland (NI) and the boarder counties to support lesbian and bisexual (LB) women and their families. We advocate for and support LB women and their families and improve the lives of LB women across Northern Ireland. We do this in lots of different ways; through providing information; peer support; facilitating training; lobbying government and agencies on LB women's issues; offering a community space for meeting and much more. HERe NI is the only women focused organisation within the NI LGBTQ+ sector.

Cara-Friend:

Cara-Friend has been serving the LGBTQ+ community in Northern Ireland for over 40 years founded in 1974, we work with young LGBTQ+ people aged 12–25. We provide regional LGBTQ+ youth groups across Northern Ireland, one-to-one support for individuals, LGBTQ+ awareness training for professionals and volunteers working in a variety of different areas, community development, the LGBT Switchboard, the LGBTQ+ Inclusive Schools

Programme and the Domestic and Sexual Violence project, supporting LGBTI women and girls across the region.

This response was prepared by:

- Rachel Powell (WRDA)
- Aoife Mallon (WRDA Independent Contractor)
- Elaine Crory (WRDA/Raise Your Voice)
- Jonna Monaghan (Women's Platform)

Several individual members of the WPG have also submitted responses to this consultation which we support.

2. Past Consultation Responses, Evidence Submissions and Briefings relating to Hate Crime

- WPG Joint Submission to DOH/DOJ Domestic and Sexual Abuse Strategy Call for Views and TEO Equally Safe: Tackling Violence Against Women and Girls Strategy Call for Views ([March 2022](#))
- WPG Response to Hate Crime Legislation Review Consultation ([April 2020](#))
- WPG Response to Department of Justice Response to Hate Crime Legislation Review Consultation ([December 2021](#))
- Raise Your Voice Response to Hate Crime Legislation Review Consultation ([April 2020](#))
- WRDA Response to Hate Crime Legislation Review Consultation ([April 2020](#))
- WPG Statement in Response to Law Commission Hate Crime Report ([December 2021](#))

2.1 Additional Consultation Responses, Evidence Submissions and Briefings Relating to Violence Against Women and Girls:

- WPG Protection from Stalking Bill written evidence submission and oral evidence presentation¹,
- WPG Justice (Sexual Exploitation and Trafficking Bill) written evidence submission and oral evidence presentation²
- WPG Response to Home Affairs Inquiry into Spiking³
- WPG Submission on the Safe Leave Bill⁴,
- Submission to Health Committee on Safe Access Zones⁵,
- Submission to Justice Committee on Fatal and Non-Fatal Strangulation⁶,
- WPG Briefing on Treating Misogyny as a Statutory Aggravator in the Hate Crime Review⁷,
- Evidence submission to the committee on the Domestic Abuse and Civil Proceedings Bill in 2020⁸.
- Briefings to MLAs on the rise in domestic abuse in the beginning of the COVID-19 pandemic⁹,
- Calls for increased funding for domestic abuse support providers.¹⁰

¹ WPG Joint Submission to Protection from Stalking Bill (2021): <https://wrda.net/wp-content/uploads/2021/04/WPG-Joint-Submission-Protection-from-Stalking-Bill-16-04-2021.pdf>

² WPG Justice (Sexual Exploitation and Trafficking Bill) written evidence submission and oral evidence presentation: <https://wrda.net/wp-content/uploads/2021/09/WPG-Written-Evidence-Submission-to-Justice-Sexual-Exploitation-and-Trafficking-Victims-Bill-24-September-2021-1.pdf>

³ WPG Response to Home Affairs Committee into Inquiry into Spiking (2022): <https://wrda.net/wp-content/uploads/2022/01/WPG-response-to-Spiking-Inquiry.pdf>

⁴ WPG Response to Safe Leave Bill (2021): <https://wrda.net/wp-content/uploads/2021/12/WPG-Response-to-Safe-Leave-Bill-Dec-21.pdf>

⁵ WPG Evidence Submission to Safe Access Zones (2021): <https://wrda.net/wp-content/uploads/2021/11/WPG-Evidence-Submission-Safe-Access-Zones.pdf>

⁶ WPG Response to Non-fatal Strangulation Public Consultation (2021): <https://wrda.net/wp-content/uploads/2021/09/WPG-response-to-NFS.docx.pdf>

⁷ WPG Response to Department of Justice Response to Hate Crime Review (2021): <https://wrda.net/wp-content/uploads/2021/12/WPG-Summary-Response-to-DoJ-Response-to-Hate-Crime-Review-Dec-2021-.pdf>

⁸ WPG Evidence Submission to Justice Committee (2020) Domestic Abuse and Family Proceedings Bill: <https://wrda.net/wp-content/uploads/2020/06/WPG-NI-Evidence-Submission-to-Justice-Committee-05.06.20.pdf>

⁹ WPG Statement on the Gendered Impact of COVID-19 and Domestic Abuse (April 2020): <https://wrda.net/2020/03/26/statement-by-the-womens-policy-group-on-the-gendered-impact-of-covid-19/>

¹⁰ WPG Call for Emergency Funding for Domestic Violence and Sexual Health (May 2020): <https://wrda.net/wp-content/uploads/2020/06/WPG-Letter-Emergency-Domestic-Violence-Funding-.pdf>

- Calls for the urgent implementation of a Violence Against Women and Girls Strategy and broader measures to tackle gender-based violence in the WPG COVID-19 Feminist Recovery Plan¹¹,
- Broader events such as our Feminist Recovery Plan Webinar Series analysing the rising levels of violence against women throughout COVID-19¹²,
- Response to the Independent Hate Crime Legislation Review Consultation¹³,
- WPG Feminist Recovery Plan Key Briefing on Gender Based Violence¹⁴,
- WPG Response to the Department of Justice Public Consultation on Enhancing Legal Protections for Victims of Domestic Abuse¹⁵,
- WPG Response to Private Members' Bill Consultation on Paid Domestic Abuse Leave¹⁶,
- WPG Response to Department of Justice Public Consultation on Consent to Harm for Sexual Gratification: Not a Defence.¹⁷

¹¹ WPG COVID-19 Feminist Recovery Plan (July 2020): <https://wrda.net/wp-content/uploads/2020/07/WPG-NI-Feminist-Recovery-Plan-2020-.pdf>

¹² WPG Feminist Recovery Plan Webinar Series - COVID-19 and Violence Against Women (in collaboration with Women's Aid and Raise Your Voice) summary briefing available here: <https://wrda.net/wp-content/uploads/2020/11/VAWwebinarsummary.pdf>; and recording available here: <https://wrda.net/wp-content/uploads/2020/11/VAWwebinar.mp4>

¹³ WPG (April 2020) Hate Crime Legislation Independent Review Consultation Response: <https://wrda.net/wp-content/uploads/2020/12/WPG-Hate-Crime-Consultation-Review-Response-30.04.20-Updated.pdf>

¹⁴ WPG (April 2021) Feminist Recovery Plan Key Briefing on Gender Based Violence: <https://wrda.net/wp-content/uploads/2021/04/WPG-FRP-Gender-Based-Violence-Key-Briefing.pdf>

¹⁵ WPG (February 2021) Response to DOJ Consultation on Enhancing Legal Protections for Victims of Domestic Abuse: <https://wrda.net/wp-content/uploads/2021/02/WPG-Response-on-Enhancing-Legal-Protections-for-Victims-of-Domestic-Abuse-Public-Consultation.pdf>

¹⁶ WPG (January 2021) Response to Private Members' Bill on Paid Leave for Victims of Domestic Abuse: <https://wrda.net/wp-content/uploads/2021/01/WPG-Response-to-PMB-Consultation-Paid-Domestic-Abuse-Leave-Jan-21.pdf>

¹⁷ WPG (January 2021) Response to DOJ Consultation on Consent to Serious Harm for Sexual Gratification - Not a Defence: <https://wrda.net/wp-content/uploads/2021/01/Consent-to-harm-for-sexual-gratification-not-a-defence-by-WPG.pdf>

3. WPG Feminist Recovery Plan

Within the Women's Policy Group Feminist Recovery Plan, originally launched in 2020¹⁸ and relaunched in 2021¹⁹, the WPG provided a comprehensive overview of the severe impact of the pandemic on women in Northern Ireland. The issues, evidence and recommendations made by the WPG within the Feminist Recovery Plan and the other work of the WPG and its members are crucial to fully addressing issues relating to gender inequality in our society.

The WPG NI COVID-19 Feminist Recovery Plan highlights the disproportionate impact of the pandemic on women and makes several recommendations for addressing this impact. The Plan also provides detailed evidence of pre-existing gender inequalities in our society, which have become exacerbated as a result of the pandemic. The Plan covers a wide range of topics, including violence against women, health inequalities and women's poverty, within six main Pillars: Economic Justice, Health, Social Justice, Culture, Brexit, Human Rights and a Bill of Rights, and International Best Practice.

3.1 Hate Crime content from WPG Feminist Recovery Plan

Hate crime is an intersectional issue. Because gender is not a protected characteristic under current hate crime legislation, women who are targeted for a hate crime ostensibly on the basis of race, disability, sexual orientation, or community background would be categorised by PSNI as following into one of those categories. The factors which make someone a target of a hate crime or hate incident may be related to multiple aspects of a person's identity. Is an ethnic minority woman wearing a headscarf harassed on the street being targeted for her religion, her race, or her gender? These aspects of our identity cannot be so neatly separated from each other.

¹⁸ Women's Policy Group (2020) [WPG COVID-19 Feminist Recovery Plan](#).

¹⁹ Women's Policy Group (2021) [WPG COVID-19 Feminist Recovery Plan: Relaunch – One Year On](#)

3.1.1 Misogynistic Hate Crimes

The WPG, alongside many of our colleagues in the women's sector and LGBTQI+ sector, have long campaigned for misogyny to be recognised as a category (i.e. motivation) of hate crime in Northern Ireland.

A chilling and very public illustration of the urgency of this move presented itself in October 2020, when five women were attacked by a man with his fists and a knife in Belfast city centre and around the University area. None of the injuries were life-threatening, but the impacts go far beyond the impact on physical health. These attacks fracture their sense of security on the streets, as well as the security of their families, friends and the community as a whole. Women must be able to move through life safely, and the city should be safe for everyone.

In the immediate aftermath, and before any arrests were made, the PSNI advised people to be careful and not to walk alone. We know that some of those attacked were with others at the time of the assault and therefore this advice is of limited help, and of course it is not always possible for women to be accompanied at all times. Ultimately, and more importantly, the focus in cases like this should and must be on the behaviour of the assailant and not on what women can do to be safe (advice which leads to victim blaming).

These kinds of attacks are examples of gender-based violence. This type of violence takes many forms, but its root is always in antagonism towards women, or misogyny. Misogyny is so normalised in our society that people often deny its existence or seek to minimise it, insisting that women are making a fuss about nothing. The truth is that gender-based violence and misogyny ruins lives. We must not shy away from thinking about it, discussing it and tackling it in every way we can.

We welcome the motion that was adopted unanimously on 23rd March 2021 on developing a Violence against Women and Girls Strategy for Northern Ireland, recognising crime motivated by misogyny as hate crime and developing standardised, mandatory RSE in schools²⁰. However, work must be undertaken by the NI executive to action this motion on all fronts as

²⁰ Northern Ireland Assembly (2021), AIMS Portal, Motion on Creating a Violence Against Women and Girls Strategy for Northern Ireland: <https://bit.ly/3qWJM8u>

speedily as possible, and implement the adequate Hate Crime legislation that recognised misogyny motivated crime as hate crime.

We are also concerned by the growing prevalence of racist hate crimes in Northern Ireland, particularly the abhorrent racist hate crime attack on the Belfast Multicultural Association in January 2021.²¹ We would again like to call for all recommendations from the Hate Crime Review to be implemented and highlight again our own recommendations in relation to intersectionality. The Women's Policy Group submitted a detailed Hate Crime Legislation Review consultation response in 2020 which you can read [here](#).

Summary of WPG Recommendations made in 2020 in relation to Hate Crime:

- Introduce of an adequate working definition of hate crime,
- Create a consolidated hate crime legislation model for Northern Ireland,
- Replacing the enhanced sentencing model with the statutory aggravation model,
- Apply the statutory aggravation model to all protected characteristics,
- Introduce specific guidelines and extensive programmes of training and education on any new model of hate crime legislation; including what the protected characteristics are and the consequences of committing a hate crime,
- Recognising gender as a protected characteristic through specifically treating misogyny as a standalone hate crime, rather than adding 'gender' as a protected characteristic in a gender-neutral sense,
- Recognise transgender identity as a protected characteristic,
- Recognise intersex identity as a protected characteristic,
- Create a legal framework that recognises the importance of intersectionality to adequately reflect the experiences and identities of victims and motivations of perpetrators,
- Require the court to state if offences are aggravated, reflect this on court records and outline the difference the aggravation had on sentencing,
- Record aggravated offences on criminal justice records,

²¹ Irish News (January 2021), 'PSNI treating fire at Belfast Multicultural Centre as Hate Crime', <https://bit.ly/2UqTWGB>

- Create a statutory legal definition of “hostility”,
- Add equivalent provisions to Sections 4, 4A and 5 of the Public Order Act 1986 to the Public Order (Northern Ireland) Order 1987,
- Remove outdated “dwelling” defences,
- Include all protected groups under the stirring up provisions of the Public Order (NI) Order 1987,
- Recognise the severe harm caused by online hate speech and misogyny against women,
- Update and amend existing legislation dealing with public order, malicious communications and harassment to reflect the changing nature of communications due to social media,
- Ensure online harm is fully covered within hate crime legislation,
- Strengthen law relating to public authorities tackling hate expressions in public spaces,
- Implement victim-led restorative justice programmes in collaboration with community-based organisations,
- Commission extensive research specific to Northern Ireland to tackle the under-reporting of hate crime and mistrust from minorities in reporting services,
- Adequately fund and expand the Hate Crime Advocacy Scheme,
- Restrict the press reporting of hate crime victims where appropriate,
- Create measures for legislative consolidations and scrutiny.

Additional Recommendation:

- We again urge that misogyny motivated crime be recognised as a category of hate crime and that this phenomenon, the conditions in which it thrives, and a serious attempt to tackle it be incorporated into any Violence Against Women and Girls strategy,

3.1.2 Online Abuse against Women

There have been 1,220 reports of online violence towards women in Northern Ireland since 2015 (the total could be even higher than the figures suggest as not all crimes specify the gender of the victim). In 2017-18 the PSNI saw the highest annual figure ever recorded with 433 women feeling so threatened

that they reported the online abuse to the police – 30 of these involved death threats with another 394-constituting harassment.²²

The issue of online abuse against women is extremely concerning. It has prompted the creator of the internet, Sir Tim Berners-Lee, to say that “the web is not working for women and girls.”²³ Berners-Lee stated that while the world has made important progress on gender equality he is “seriously concerned that online harms facing women and girls – especially those of colour, from LGBTQ+ communities and other marginalised groups – threaten that progress.” Berners-Lee said that “for many who are online, the web is simply not safe enough” and that online abuse:

“Forces women out of jobs and causes girls to skip school, it damages relationships and leads to tremendous distress. Relentless harassment silences women and deprives the world of their opinions and ideas, with female journalists and politicians pushed off social media and bullied out of office.”

In 2018 Amnesty International published research on ‘Toxic Twitter’²⁴ which included interviews with journalists, activists and politicians from the UK (including NI) and USA exposing how Twitter is failing to respect women’s rights and warned the social media company that it must take concrete steps to improve how it identifies, addresses and prevents violence and abuse against women on the platform.

The women's testimony details the shocking nature of violence and abuse they are receiving on Twitter, including death threats, rape threats and racist, transphobic and homophobic abuse. Public figures, MPs and journalists are often particular targets, but people who aren't in the public eye are also experiencing abuse, especially if they speak out about issues like sexism and use campaign hashtags. Several recommendations were made and can be viewed [here](#).

In the independent review of hate crime in Northern Ireland, Judge Marrinan acknowledged the issue of hateful abuse online as part of this Review citing

²² ITV News (2018), ‘Reports of Online Violence Towards Women in NI’, (available online): <https://bit.ly/3j8BnBA>

²³ Why the web needs to work for women and girls, Sir Tim Berners-Lee, March 2020, <https://bit.ly/2SRAuTi>

²⁴ Amnesty International, (2018), ‘Toxic Twitter: A Toxic Place for Women’: <https://bit.ly/3zOQS7v>

the abuse that many women politicians both in Westminster and locally in the Northern Ireland Assembly have to endure often on a daily basis.

This is a significant issue as it has led to the resignation of a number of women MPs in recent years with obvious impacts for gender equality and ensuring that the voices of women are at the table. Heidi Allen stood down because of the “nastiness and intimidation” she faced as a politician. Luciana Berger said the abuse she faced made her “physically ill” so much so that she had to work with the police and security for her personal safety. She described the abuse as “personal and sometimes very extreme in its nature. Sometimes it's pornographic, sometimes violent, often very misogynistic.”

Online abuse of some of Northern Ireland's female politicians has prompted calls to establish a cross-party working group on misogyny. Cara Hunter, SDLP MLA and Deputy Mayor of Derry has been subjected to near-constant “sexual and violent messages and threatening voicemails.” DUP MLA Carla Lockhart said that online abuse was something she had become accustomed to. She explained “any time there's a picture of me on Twitter, no matter what it's connected with, I will have someone picking on my appearance.”

There is a real need for action to prevent these online behaviours. It is important to have the best people involved in the Government representing their communities. It is not possible to achieve this if women feel excluded from these positions due to this type of misogyny and online hate. Women make up half the population and their rights and interests cannot be adequately protected unless women are involved in positions of power and in Government. Misogynistic behaviour of this kind limits women's representation and visibility not just in politics but in other spheres and it is therefore vital that this is tackled.

Online abuse against women and girls has specific implications, and often has a specific ferocity and disproportionate volume, for women of colour, LGBTQ+ women, and disabled women. In a wider UK context, the MP who received the most online abuse during the 2017 election was Diane Abbott²⁵, the first black woman to be elected MP. Further, online abuse against trans women and girls has skyrocketed in the past number of years, fuelled by animosity in the media, lack of political support, and lack of accountability for multinational social media companies.

²⁵ Amnesty Insights (2017), [‘Unsocial Media: Tracking Twitter Abuse against Women MPs’](#)

The Independent Hate Crime Legislation Review provides an important opportunity for action to be taken on this issue. We have made several recommendations in the WPG consultation response which can be read [here](#). The Protection from Stalking Bill also provides an important opportunity to address online harassment. We have made several recommendations in the WPG Evidence Submission to the Justice Committee which can be read [here](#).

3.2 Testimonies from WPG Feminist Recovery Plan Primary Research

"The fear I experience as a woman on Belfast streets is acute, particularly on dark nights. During the knife attacks on women in late 2020, I had to be accompanied by a male friend at all times when walking around Belfast in order to feel safe."

"When I was on my student placement at university, I was sexually harassed by a colleague 13 years older than me. It got to a point where I was receiving multiple emails and texts and messages on all social media platforms, all inappropriate. I reported it to HR and their investigation blamed me and said I could move desks if I didn't want to sit near him but I had to still work in the same team. Despite me saying I was afraid for my safety and he knew my address. I quit the job. I almost dropped out of university."

"There is constant harassment while you walk around Belfast, doing it in broad daylight with others watching, it's disgusting."

"Yes, I experienced regular domestic abuse in my previous marriage, including violence and coercive control. Many people are not aware of that and frankly would be surprised were they made aware of it. Stereotyping those who experience domestic violence is unhelpful in that it's misleading. There are many women (and I am sure men) who have had lived experience but have never discussed or shared it even after leaving a relationship."

"I've had strange men online access my personal contact details and send me threatening and abusive emails/DMs/text messages. I posted a few items to sell on Gumtree and received awful sexual harassment by phone and text. The PSNI said I shouldn't have posted my number online. I received so much abuse on Twitter from men that I've made my account private."

"I have had misogynistic abuse. After speaking outside against the misogyny of PSNI on Twitter I got about 100 abusive messages some threatening me with rape and death. This made me feel very unsafe and drastically impacted my mental health where I felt depressed and anxious."

"[online abuse] About my physical appearance and death threats. I didn't go outside for months after."

"I have been trolled online which has had a huge impact on my mental health. I need to have a social media presence due to my job role but some see that as a licence to attack me online for what I have/haven't done. It can be relentless and very hard to switch off from. It affects my mood and that of my family. It has also led me to increase my alcohol consumption as a way to take my mind off it which isn't healthy."

"I have had people tell me to die for my pro-choice and leftist stances and make threatening comments in reference to my sexual orientation." "[I was] sent messages saying I should die/kill myself because I'm not straight or cisgender, saying I should be raped to make me "realize I'm actually straight", being told I'm disgusted and an embarrassment to my family."

3.3 Key Findings from WPG Research on Tackling Men's Violence Against Women and Girls

The Women's Policy Group conducted primary research into the scope, scale and prevalence of men's violence against women and girls in February 2022. This research consisted of an anonymous online survey and one individual interview. The survey included a mix of qualitative and quantitative questions. We would like to highlight the following quantitative findings from this research which highlight the need to apply a gendered lens to policy and legislative decision-making regarding violence against women and girls:

- **91.2%** of women think that Northern Ireland has a problem with men's violence against women and girls.
- **89.7%** of women believe Northern Ireland has a problem with attitudes of sexism and misogyny
- **95.2%** think that reducing levels of violence against women and girls requires focusing on changing men and boy's behaviours and actions.
- **95.8%** of women think that a Strategy on violence against women and girls should address misogynistic hate crime
- **83%** of women have been impacted by men's violence against women and girls but only **21.4%** reported this to the police.
- **92.3%** think that there are barriers to reporting men's violence against women and girls.
- **86.8%** of women think that there needs to be a review of how the justice system treats victims and survivors of men's violence against women and girls.
- **87.4%** of women believe Northern Ireland has a problem with victim-blaming

We would also like to highlight some of the qualitative responses we received to this anonymous survey which highlight the real-life impacts of men's violence against women and girls and the need to recognise misogyny as a motivator of hate crime::

"It has impacted my confidence, the way I view myself and how I live my life. I'm not sure what age I was when it first happened as I can't remember a time in my life when it wasn't happening."

[In response to the question: **What do you think are the root causes of sexism, misogyny, victim-blaming, rape myths and rape culture?**]

*"The low power base and voice that women have had for generations here. **That breeds misogyny and allows it to go unchecked and become endemic within almost all institutions.** All victim blaming, rape myths, culture etc stem from deeply knitted in misogyny. Within this both women and men can contribute to this as they have been so heavily (and unchallenged) influenced for generations."*

*"**Misogyny is rampant** on social media and in porn industry and it's all too easily accessed [by] young boys and girls. Internet safety needs to improve. Misogyny is also ingrained in the culture in NI and too many male-dominated sports/church and cultural organisations."*

*"**Institutional misogyny.** The level of sexual abuse and misogyny cases within the PSNI and their attitude to survivors also exacerbates the situation."*

*"Fundamentally, women are not respected, their rights ignored and their humanity is not acknowledged. Women globally are treated as second class citizens. Most men don't acknowledge our humanity and our history has, with the aid of religion, been rich with the abuse of women and denial of rights. It is clear from the ubiquitousness of pornography, domestic abuse and rape, as well as the more recent persecution of women standing for their rights and the erosion of women's boundaries and spaces that **misogyny runs in every element of society.**"*

[In response to the question: What sort of measures do you think are necessary to change men and boy's actions?]

*"Mandatory, standardised RSE education that isn't controlled by what an individual Board of Governors is willing to teach. This is the only way we are truly going to break the cycle of VAWG. **Also making an offence of misogynistic** hate crime. Many attacks on*

women and girls are because they are women and girls, and this needs to be dealt with, as does misogynistic hate speech.”

[In response to the question: What sort of changes would you like to see within the justice system in relation to men's violence against women and girls?]

*“Police attitudes, access to the legal system, **misogyny becoming a hate crime**, training for police, legal profession and judges.”*

*“Help needs to be offered survivors of **misogynistic hate crimes need to be given support** from social workers, therapists and community.”*

4. General Comments on Hate Crime Legislation Review

The WPG welcomes the introduction of a Hate Crime Bill for Northern Ireland. This Bill should give specific protections for women and girls who are victims of hate crime. In this response, the WPG are calling for these protections to take the form of recognising misogyny as a statutory aggravator of hate crime and would welcome the introduction of a standalone misogyny offence, as has been suggested in Scotland.

The WPG welcomes the acceptance by the Department of Justice that transgender identity should be included as a protected characteristic under hate crime law. However, the WPG expresses confusion as to why the Department is consulting on including transmisogyny in hate crime law when this additional protected characteristic has already been accepted.

We have consistently campaigned for misogyny to be recognised as a form of hate crime in order to address the deep levels of violence against women and girls, rooted in misogyny in Northern Ireland. We have also consistently campaigned against harmful gender-neutral policy making in Northern Ireland that seems to treat any measures to address discrimination against women and girls as a form of discrimination against men and boys. It is not possible to address discrimination and violence against a marginalised group (i.e. women and girls) if we are constantly undermining these efforts by making legislation less effective by failing to account for who is being directly impacted by the crime at hand.

4.1 Findings from Scottish Working Group on Misogyny and Criminal Justice

Since our initial submission to the Hate Crime Legislation Independent Review in April 2020, there have been considerable increases in discussions on how to best address misogyny in our society, given vast increases in VAWG throughout the pandemic and growing levels of femicide. We would like to highlight the work of the Scottish Working Group on Misogyny and Criminal Justice and their recent report on 'Misogyny - A Human Rights Issue'²⁶.

In this report, the Working Group makes several proposals for reforming hate crime law. These include creating a Misogyny and Criminal Justice (Scotland) Act which would:

- 1) Create a new Statutory Misogyny Aggravation
- 2) Create three new offences, specifically to tackle:
 - a) Stirring Up Hatred Against Women and Girls
 - b) Public Misogynistic Harassment
 - c) Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

Statutory Misogyny Aggravation

The Scottish Working Group argue that in the creation of a new Statutory Misogyny Aggravation, misogyny should not be defined in terms of 'hate' towards women, but rather in terms of prejudice, malice or contempt for women, as this more accurately reflects the motivation behind misogynistic crimes. This is consistent with Judge Marrinan's recommendation from the Hate Crime Review that the attitudes of bias, prejudice, bigotry and contempt, should be included as indicators of hate. The Scottish Working Group explain that:

"Ill-will does not describe what men feel when they abuse or degrade women. Our formulation introduces the word 'contempt' with its connotations of scorn, disrespect and disdain."

²⁶ Baroness Helena Kennedy QC et. al. (2022), 'Misogyny - A Human Rights Issue', Working Group on Misogyny and Criminal Justice, Scottish Government:
<https://www.gov.scot/publications/misogyny-human-rights-issue/>

The Working Group recommend that this new Aggravation does not apply to crimes which are already considered inherently misogynistic, such as domestic abuse, rape, sexual assault and other sexual offences. Rather, they argue that it should apply to all other crimes such as “assault, criminal damage and offences such as threatening behaviour... so long as there is evidence of misogyny.” To demonstrate this, they provide the example of a road-rage offence against a woman driver where there is a high level of sexist abuse and where she locks herself into her car for safety. However, in instances where a man has committed a crime against a woman, but there is no evidence of misogyny, this would not fall under this new Statutory Misogyny Aggravator.

Creation of new offences

The Working Group propose the creation of three new offences: (1) Stirring Up Hatred Against Women and Girls (2) Public Misogynistic Harassment and (3) Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline. The WPG supports the creation of these new offences and recommends that a standalone misogyny offence is introduced in Northern Ireland to encompass these proposed offences and other related offences. The WPG believes that in order to tackle the issue of misogyny in hate crime law, the following should be introduced:

- Statutory Misogyny Aggravator
- Standalone Misogyny Offence

Language

The Scottish Working Group on Misogyny and Criminal Justice rightfully acknowledges that when it comes to policy and legislative decision-making, language is extremely important. The titles given to policy and legislation, and the terminology used within these documents, reflects the underlying motivation and intent behind them. This is why the Working Group are calling for the creation of a “Misogyny and Criminal Justice (Scotland) Act,” because they believe that the name in itself is a declaration of intent to address misogyny and directly acknowledge the experiences of women. The WPG believes that a similar approach should be taken in Northern Ireland and would like to see the importance of language in hate crime legislation being

acknowledged so that new legislation tackles the root of the issues it seeks to address.

4.2 Women and Girls as a Protected Characteristic

In our initial response to the Hate Crime legislation Review in 2020, the WPG called for gender to be included as a protected characteristic under new hate crime legislation - but for this to be done through the recognition of misogyny as a form of hate crime rather than through a “catch-all” gender-neutral characteristic that doesn’t actually address the problem of violence against women and girls in Northern Ireland.

Although the WPG welcome Judge Marrinan’s recognition that gender should be considered to be included as a protected characteristic, the WPG remain concerned about the hesitancy by both Judge Marrinan and the Department of Justice to specifically recognise gender-based hate crime as a crime that disproportionately and overwhelmingly impacts women (as there is no existing evidence of hate crimes against men and boys in NI based on their gender), and one which is primarily caused by misogyny towards women.

In this previous response, the WPG specifically called on the Department to **avoid taking a “gender-neutral” approach** and to instead specifically recognise women and girls as a Protected Characteristic. The reasoning behind this recommendation was connected to the purpose of developing hate crime legislation. We would now go further and urge the Department to consider recommendations from the Scottish Working Group on Misogyny and Criminal Justice’s independent report.

Hate crime reinforces long-established patterns of discrimination and crime towards marginalised groups. Accordingly, hate crime legislation should be targeted to protect those groups experiencing such crime, including women and girls. Issues associated with adopting a “gender-neutral” approach are expanded upon in section 4.5. This is the first ask from the WPG and should be complimented by recognising misogyny as a statutory aggravator.

The WPG are aware of concerns raised by other human rights and equality organisations in Northern Ireland that giving specific protections to women and girls in hate crime law might infringe on the principle of equality before the law. This concern is specifically addressed in the Scottish Working Group’s

report on misogyny and hate crime. However, we share the view expressed by the Scottish Working Group that women and girls need specific legal protections from misogynistic conduct because it reflects the “inherently gendered nature of the problem.”

4.3 Misogyny

The WPG shares the view expressed in the Department’s Consultation Document that: “Our collective focus must always be on tackling the underlying prejudice which provides fertile ground in which hate and hate crime can flourish.” The WPG considers misogyny to be the underlying prejudice which acts as a catalyst for hate crime against women.

Misogyny is defined as the dislike of, contempt for, or ingrained prejudice against women. These feelings and beliefs are motivators of hate crime against women, and the law should regard them as such. Misogynistic hate crime has particular impacts for women from ethnic minority backgrounds, LGBTQ+ women, and disabled women.

The Scottish Working Group on Misogyny and Criminal Justice define misogyny as follows:

“Misogyny is a way of thinking that upholds the primary status of men and a sense of male entitlement, while subordinating women and limiting their power and freedom. Conduct based on this thinking can include a range of abusive and controlling behaviours including rape, sexual offences, harassment and bullying, and domestic abuse.”

The WPG, alongside many of our colleagues in the women’s sector and LGBTQI+ sector, have long campaigned for misogyny to be recognised as a motivator of hate crime in Northern Ireland. For instance, the Raise Your Voice project has successfully achieved cross-party support for a motion across a number of local councils in Northern Ireland which calls for misogyny to be recognised as a hate crime. Further, a motion was also unanimously passed in the Northern Ireland Assembly on 23rd March 2021 which stated:

*“That this Assembly condemns violence against women and girls in all forms; notes with concern that Northern Ireland is the only place on these islands that does not have a specific strategy to tackle gender-based violence and abuse; regrets that the Executive is failing to meet its international obligations in this regard; and calls on the Executive to take immediate action to eliminate gender-based violence by introducing a Violence Against Women and Girls Strategy that is fully resourced **and underpinned by legislation to make misogyny a hate crime**, and to introduce standardised, comprehensive Relationship and Sexuality Education in our schools to eradicate sexist attitudes and build lifelong, positive relationships²⁷.”*

In line with the support for misogyny to be recognised as a form of hate crime across local councils and the NI Assembly, we are calling on the Department to formally recognise Misogyny as a Statutory Aggravator in Hate Crime Legislation in Northern Ireland and introduce a standalone misogyny offence.

4.4 Intersectionality

The WPG acknowledges that recognising intersectionality in hate crime legislation will be specifically dealt with in phase two of this consultation process. However, a sound understanding of intersectionality is crucial when discussing issues relating to misogynistic hate crime, therefore we have included some comments relating to intersectionality below, and will discuss these further in phase two of the consultation.

Within the initial WPG response to the Hate Crime Review, we advocated for the concept of intersectionality to be incorporated into hate crime legislation. The WPG welcomes that the Department has accepted recommendation number 11, that any new legislation will recognise the importance of intersectionality and will be included in the drafting of the new legislation, in recognition of victims who are subject to hate crime. In doing this, it is crucial that the definition of intersectionality accurately reflects multiple and

²⁷ <http://www.niassembly.gov.uk/assembly-business/marshalled-list-of-amendments/23-march-2021/>

intersecting levels of harm that victims face due to systemic structures of oppression, domination and discrimination.

Within our initial response, we highlighted the definition of intersectionality by Kimberlé Crenshaw, who originally coined the term. We would like to again share her definition of intersectionality, a definition that we believe the Department should employ in their work on hate crime legislation:

“American lawyer and scholar, Kimberlé Williams Crenshaw, introduced the theory of Intersectionality in 1989 and coined the term in 1993. This extremely influential theory explains how overlapping identities relate to systems and structures of oppression, domination or discrimination. The main argument behind this was that the experience of a black woman cannot be understood in terms of being black and of being a woman considered independently, but must include the interactions between the two, which frequently reinforce each other. We believe that the above theory of intersectionality is crucial to understanding the experiences of hate crime victims, and marginalised groups more generally.

We also agree with the view that hate crime policy has emerged through an identity of politics which tends to over-simplify victim groups and does not necessarily take into account the diverse and intersecting experiences of victims and the nuances of the harms that they might suffer. It is crucial to understand that a hate crime can be the outcome of multiple prejudices and in recognising this, a clearer understanding of the experience of victimisation and the commission of the offence can be gained. This approach would also allow for more comprehensive monitoring and responses to hate crimes by both the police and the PPS.”

The factors which make someone a target of hate crime can be intersectional and may be related to multiple types of hostility towards a person's identity. For example, an ethnic minority woman wearing a headscarf on the street might be attacked by an individual through prejudice or hostility relating to her race, religion *and* gender. We believe that intersectionality is crucial to understanding the experiences of hate crime victims, and marginalised groups more generally, and should be incorporated into new hate crime

legislation. This would provide a clearer understanding of the experience of victimisation and the commission of the offence.

Judges should be able to apply multiple aggravating hostility-related factors at sentencing. For example, if a Muslim woman was attacked by a perpetrator motivated by both misogyny and islamophobia, adding “multiple group hostility” would not suggest that she was harmed more than someone attacked solely for their religion or gender; but that the intersecting harms of racism, misogyny, islamophobia and sectarianism means that their attack can be motivated by these multiple hostilities rather than just one. This approach better reflects the realities of motivations behind hate crimes and the impacts on victims. It would also support wider efforts to identify, through data collection, the most common intersecting areas of prejudice and better protect people from these types of crimes.

The WPG welcome the acceptance by both Judge Marrinan and the Department of Justice of the inclusion of transgender identity as a protected characteristic in hate crime legislation (Section 13 of Department of Justice Response). The WPG believe that this provision should also specifically include non-binary and gender non-conforming people and we welcome the enhanced protections for these gender minorities. These groups should be given specific protections, rather than being protected generally under the category of ‘gender’.

The WPG would like to echo calls made by the Scottish Working Group on Misogyny and Criminal Justice that, in regards to including a specific misogyny offence, **“no offence should be created that requires a woman to prove that she is a woman”** and “the law should seek to protect as many people as possible.” Incorporating intersectionality into hate crime legislation in this way would ensure the full and equal protection of transgender and non-binary people. A statutory aggravator of misogyny would protect *both* trans women and cis women because trans women can experience both misogyny and transphobia separately or together (through trans misogyny).

4.5 Harm of Gender-Neutral Protected Characteristic

The WPG would like to echo comments made by the Scottish Working Group on Misogyny and Criminal Justice in their recently published report titled: “Misogyny – A Human Rights Issue”²⁸:

*“We feel that to eradicate misogynistic crimes these laws have to be targeted at protecting women. **Treating as equal those who are not yet equal only furthers inequality...**”*

There is no substantiated evidence of instances of gender-based hate crime towards men. This is not to say that men do not experience hate crime, but that men are not victims of hate crime as a result of their gender. In contrast, there is substantial evidence that women are victims of hate crime as a result of their gender, acts which are driven by misogyny. This includes misogynistic online abuse against women, which is particularly visible against women in public roles, such as female politicians.

It is crucial that the Department of Justice avoids taking a “gender neutral” approach to the inclusion of gender as a motivator of hate crime. There are several reasons why this approach is harmful to women, not least because the provision could be abused to remove focus from misogynistic violence and other abuse against women and girls. This approach would be based on the problematic idea that, rather than protecting women and girls from hate crime they already experience as a result of their gender, men and boys should be equally protected from hate crime that they could potentially experience in the future, as a result of their gender. These potential future experiences remain entirely hypothetical not least because of the fact that, as Judge Marrinan specifies in his Review, these types of crimes are typically targeted towards those perceived as different or less valuable within society as a whole, not just by the individual carrying out the crime. He quotes Barbara Perry as follows; “These acts are usually directed towards already stigmatised and marginalised groups. As such, it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise a given social order”²⁹.

²⁸ Baroness Helena Kennedy QC et. al. (2022), ‘Misogyny - A Human Rights Issue’, Working Group on Misogyny and Criminal Justice, Scottish Government:

<https://www.gov.scot/publications/misogyny-human-rights-issue/>

²⁹ Hate Crime Review (2020) p.81 <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/hate-crime-review.pdf>

Existing tangible threats to women and girls' safety should not be treated with equal weight to potential and unlikely threats to men, based on non-existent evidence regarding gender-based hate crime towards men and boys.

4.6 Harm of 'by reason of' threshold

The WPG recommends *against* the introduction of a 'by reason of' threshold as a way to determine when a crime becomes a hate crime, in line with recommendations put forward by the Committee on the Administration of Justice (CAJ). As noted by CAJ, the 'by reason of' threshold would "likely apply to all protected characteristics and move hate crimes away from being tied to ideologies of hatred. For example, if the victim was targeted for a crime *because* they were a man, by another man, this could then constitute a hate crime, even though there is no evidence of the ideology of hatred of men as a group." This could leave hate crime legislation open to being exploited by groups that do not face systemic and structural discrimination at the expense of those who do face this oppression, on the basis of protected characteristics.

The WPG share concerns raised by CAJ that the introduction of this threshold does not reflect the primary purpose of hate crime legislation: to protect marginalised groups against a type of crime that seeks to reinforce long-established patterns of discrimination and ideologies of hatred. For example, hate crime motivated by racism seeks to reinforce racist structures that uphold white supremacy. Similarly, hate crime motivated by misogyny seeks to reinforce patriarchal structures upheld by sexism. Accordingly, hate crime legislation should be targeted at protecting marginalised groups who are impacted by these ideologies of hatred from such crime, including women and girls.

4.7 Statutory Aggravation Model

The WPG supports recommendations by CAJ to replace the enhanced sentencing model with the statutory aggravation model, which should be applied to all protected characteristics. Under this model, misogyny could be recognised as a statutory aggravator, in the same way that the Department is

considering introducing a “sectarianism aggravator” to hate crime legislation dealing with sectarianism (Section 17 of Department of Justice Response to Hate Crime Review³⁰). There is also a broader range of offences relating to harassment and other conduct within the review that could be tailored to become aggravated offences that are relevant to tackling misogynistic crime.

Hate crime against women constitutes a form of gender-based violence, and must be addressed as such. The misogyny aggravator would achieve this, while also underlining that hate crime motivated by misogyny is driven by societal norms and attitudes, with gender power relations and male privilege a primary factor in both misogyny and gender-based violence.

4.8 International Standards and Obligations

The international law framework, including the Istanbul Convention as well as CEDAW, the Convention on the Rights of the Child (UNCRC), the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of People with Disabilities (CRPD), provides a clear mandate for these strategies to be put in place. It is particularly vital that legislation is in line with the Istanbul Convention, as shortfalls in Northern Ireland have in part prevented the UK from ratifying the Convention; this is a major concern for the women’s sector UK wide, as it creates disparities between the UK and other European countries.

The Istanbul Convention holds that all state actors are obliged to conform to the requirements of the Convention. Key among these are requirements to implement effective legislation to protect women and girls from violence, ensure adequate resourcing for action, and implement gender sensitive policies. Importantly, the Convention emphasises data collection as the basis of action, and stresses the role of meaningful data in prevention. It also mandates work with men and boys to change cultures, attitudes and behaviours, and provides detailed guidance on development of judicial systems and responses.³¹ The Council of Europe has also recently published

³⁰ Department of Justice (2021) Response to Judge Marrinan’s Hate Crime Review. Available at: <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/review-of-hate-crime-legislation-doj-response.pdf>

³¹ Council of Europe (2011). [Convention on preventing and combating violence against women and domestic violence](#)

guidance on education for prevention under the Istanbul Convention, which emphasises gender equality and non violent approaches, and provides examples of good practice from a number of countries as well as a checklist for developing national good practice³².

As a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)³³, the UK, including all the devolved administrations, has an obligation to protect women from all forms of discrimination, including gender-based violence. This is clearly stated throughout the Convention, and highlighted in Articles 1-3, which emphasise the obligation on states to introduce legislation that prohibit all forms of discrimination of women and protect women from “any act of discrimination” (Article 2). In addition, Article 5 introduces an obligation to act on gender stereotypes, which are relevant in the context of misogyny and hate crime in that misogyny both drives and utilises gender stereotyping, which often informs how perpetrators of hate crime choose their victims.

In its Concluding Observations on the examination of the UK in 2019³⁴, the CEDAW Committee expressed concern regarding the inadequacy of legislation and policies in Northern Ireland to protect women from gender-based violence, and recommended that the State Party adopt legislative and comprehensive measures to address the situation. The Concluding Observations also include a recommendation relevant to all jurisdictions in the UK to take action on sexual harassment of women and girls in public places, workplaces and educational institutions. The Inquiry into abortion legislation in Northern Ireland under the Optional Protocol to CEDAW underlines the need to protect women and pregnant people accessing abortion clinics and family planning services from harassment, and includes a recommendation to introduce protection zones around clinics³⁵. This is currently being implemented through the Abortion Services (Safe Access Zones) Bill³⁶.

³² Council of Europe (March 2022) [Preventing violence against women through formal and informal education: Article 14 of the Istanbul Convention](#)

³³ [CEDAW](#) 1979

³⁴ CEDAW Committee (2019) [Concluding Observations on the 8th periodic report of the United Kingdom of Great Britain and Northern Ireland](#)

³⁵ CEDAW Committee (2018) [Inquiry into abortion legislation in Northern Ireland under Article 8 of the Optional Protocol to CEDAW](#), see paragraph 86 (g) for recommendation.

³⁶ [Abortion Services \(Safe Access Zones\) Bill](#) 2021

CEDAW General Recommendation 35³⁷ on gender-based violence clarifies the concept of gender-based violence as a social phenomenon as opposed to an individual level issue, and provides further guidance on action required by State Parties to protect women and girls in line with this understanding. This includes strengthening legal measures, including sanctions, as well as civil remedies. The General Recommendation also highlights that violence and harassment is increasingly perpetrated in the online sphere, and that action is required to protect women and girls.

The General Recommendation requires States parties to CEDAW to “have an effective and accessible legal and legal services framework in place to address all forms of gender-based violence against women committed by State agents, whether on their territory or extraterritorially.”³⁸ The Recommendation also requires State parties to ensure that state actors have appropriate training to effectively implement legislation and policy, including prosecuting offences. In addition, it places an onus on States parties to harmonise legislation with CEDAW, and ensure that all practices that can be considered gender-based violence come within the scope of such legislation.

A misogyny aggravator and a standalone misogyny offence would, therefore, be in line with international human rights standards and would help ensure Northern Ireland legislation is fully compliant with CEDAW.

5. Response to Consultation Questions

Question 1: Do you agree / disagree that the threshold for Hate Crime legislation should be of a sufficient high level when criminalising a person for their behaviours/attitudes leading to hate motivated offences and which results in an increased sentence from the basic offence?

- Agree

We agree that the threshold for hate crime legislation should be of a sufficiently high level when criminalising a person for their behaviours/attitudes leading to hate motivated offences. To assist in the

³⁷ [CEDAW General recommendation No.35](#) on gender-based violence against women, updating general recommendation No.19, CEDAW/C/GC/35, July 2017

³⁸ CEDAW General Recommendation 35, paragraph 22.

determination of the threshold for hate crime, we would like to emphasise the need for tight definitions of key terms in relation to incitement to hatred offences.

It is important to note that in most jurisdictions, express hate crime laws are not necessary to police, prosecute or sentence prejudice-related crime as most of the conduct they target is already criminalised. Therefore, hate crime laws ‘top-up’ the traditional criminal law by imposing a heavier penalty than that which is applicable to parallel crimes. The imposition of an extra penalty for prejudice, bias, hostility and hatred is a core feature of hate crime law. It is therefore necessary to have legally recognised definitions of these terms to enable determinations of whether crimes meet the high threshold for hate crime legislation.

We would also like to highlight the below recommendation from the Committee on the Administration of Justice responses to the 2020 Hate Crime Review³⁹:

‘The tight definition of key terms in relation to incitement to hatred offences such as ‘hatred’ or ‘hostility’ can also assist in providing legal certainty over the interpretation of such concepts. To assist determinations of the threshold for ‘incitement to hatred’ over protected freedom of expression the legislation can defer to contextual tests which have been codified in international standards, either directly or through providing for secondary provision, such as a Code of practice. At present, as alluded to in the consultation document, there is only very limited official policy guidance available to police and prosecutors in interpreting the incitement (stirring up hatred) offences.’

Question 2: Do you agree / disagree that the current threshold of hostility is maintained in legislation as that threshold?

- Agree

We agree that the current threshold of hostility is maintained in legislation as that threshold and, as there is no current legal definition of hostility, we believe

³⁹ CAJ (2020) Submission to the Independent Hate Crime Legislation Review:
<https://caj.org.uk/wp-content/uploads/2020/04/CAJ-submission-to-hate-crime-review-April-2020.pdf>

there should be a wide range of attitudes including “bias, prejudice, bigotry or contempt” as stated in our initial response in 2020.

Question 3: Do you agree / disagree that the attitudes of bias, prejudice, bigotry and contempt, as suggested by Judge Marrinan, could be included as indicators of hate in subsequent guidance in support of new legislative changes in a Hate Crime Bill?

- Agree

As highlighted in response to question 2, we support the suggestion from Judge Marrinan to include bias, prejudice, bigotry and contempt as indicators of hate in addition to hostility. This stance is consistent with recommendations put forward by the Scottish Working Group on Misogyny and Criminal Justice who argue that understanding hate crime against women in terms of prejudice, malice or contempt for women more accurately reflects the motivation behind misogynistic crimes.⁴⁰

We would like to highlight the following from the WPG response to the 2020 Independent Hate Crime Legislation Review:

The term ‘hatred’ is used without a definition in the Public Order Act 1986 and used with an arguably flawed definition in the Public Order (Northern Ireland) Order 1987. We also note the reason behind the argument in 11.57 of the consultation document whereby defining something by reference to itself is circular and unhelpful. We would agree that “hatred” is a stronger term than “hostility”. In creating legislation to deal with hateful behaviour that meets a criminal threshold, we believe that the use of the term “hatred” in the Public Order (Northern Ireland) Order 1987 sets the bar too high to enable the criminal justice system to tackle the rise in hate crimes. As the threshold for hate speech/incitement to hatred is high and unidentifiable in the aforementioned legislation, we agree with arguments set out in 11.58 [of the consultation document] that “hatred should be defined by reference to concepts such as hostility, bias, prejudice,

⁴⁰ Baroness Helena Kennedy QC et. al. (2022), ‘Misogyny - A Human Rights Issue’, Working Group on Misogyny and Criminal Justice, Scottish Government:
<https://www.gov.scot/publications/misogyny-human-rights-issue/>

bigotry or contempt or that it should be replaced altogether by terms such as those".

The WPG consider a hate crime to be:

A hate crime is an act of violence, hostility or intimidation directed towards a person or group due to their identity or perceived identity. A wide range of incidents can constitute a hate crime if the incident or offence was motivated by, or provoked by, an existing bias. This can include, but is not limited to, verbal abuse, discriminatory practices, property damage, physical assault, online abuse and murder... These acts are usually directed toward already stigmatised and marginalised groups. As such, it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise a given social order.

We also believe it is crucial to power dynamics between victims and perpetrators of hate crimes, with perpetrators targeting minority or marginalised groups with hostility, bias, prejudice, bigotry and contempt. We believe it is important to link hate crimes against certain groups with specific ideologies that underpin them, in order to mitigate against the risk of lay or reverse application. For instance, hate crimes against women and girls should be recognised as grounded in misogyny. This is also relevant for other crimes relating to racism, ableism, homophobia, transphobia and sectarianism and can be defined in legislation in accordance with international standards in order to increase legal certainty. We also refer to the point highlighted in response to question 1 about tight definitions of key terms assisting in determinations of the threshold for 'incitement to hatred' over protected freedom of expression.

Question 4: Do you agree / disagree that a third 'by reason of' threshold should not be added to the current thresholds in legislation, which are demonstration of hostility and motivated by hostility?

- **Agree**

As highlighted in section 4.6 of this response, we agree that the third 'by reason of' threshold should **not** be added to the current thresholds in legislation. We believe the introduction of this third threshold would broaden the hate crime

legislation to an extent that it would be weaker. We do not support this threshold as it moves away from the purpose of hate crime legislation. As highlighted in section 4.6:

*'The WPG share concerns raised by CAJ that the introduction of this threshold does not reflect the primary purpose of hate crime legislation: **to protect marginalised groups against a type of crime that seeks to reinforce long-established patterns of discrimination and ideologies of hatred.** For example, hate crime motivated by racism seeks to reinforce racist structures that uphold white supremacy. Similarly, hate crime motivated by misogyny seeks to reinforce patriarchal structures upheld by sexism. Accordingly, hate crime legislation should be targeted at protecting marginalised groups who are impacted by these ideologies of hatred from such crime, including women and girls.'*

Question 5: In supporting the understanding of a statutory sectarian aggravator in hate crime law, do you agree / disagree that 'sectarian' should be defined in law?

- **Agree**

The WPG agrees that 'sectarian' should be tightly defined within law in Northern Ireland. As highlighted in the WPG 2020 submission:

'The consultation sufficiently highlights the difficulties with the lack of a definition of sectarianism in much of the existing legislation and the inconsistencies and complexities that this causes ... but we want to echo many of the calls for increased legislative powers to deal with sectarianism. This includes making a specific reference to 'sectarian' within any new hate crime legislation.

Dr Robbie McVeigh said of the existing laws dealing with sectarianism:

"In short, it would be difficult for anyone to argue that there is not a 'problem' with hate and hatred in contemporary Northern Ireland. In other words, it is not the absence of hatred in Northern Ireland that

*explains the absence of prosecutions for incitement to hatred. There is obviously something else going on – if the law is intended to prevent the profusion of hatred, it is not working very well.”*⁴¹

*Both the United Nations and Council of Europe expert treaty bodies on racism have, when examining the UK, held that sectarianism in Northern Ireland is to be treated as a specific form of racism. When discussing sectarianism, the NI Human Rights Commission who have stated that “this does not mean that sectarianism should not continue to be individually named and singled out just as other particular forms of racism are, for example, anti-Semitism or Islamophobia”*⁴².

Given the difficulties to deal with sectarianism in existing criminal law, we support including reference to ‘sectarian’, alongside a definition of the term, in any new hate crime legislation.

Question 6: In supporting a statutory sectarian definition, in relation to hate crime law, do you agree / disagree that the definition should include the following elements?

- **Membership (or presumed membership) of a Roman Catholic or**
- **Protestant denominational group;**
- **Social or cultural group with a perceived Roman Catholic or Protestant**
- **Denominational affiliation; or**
- **Membership (or presumed membership) of a group based on their Irish or**
- **British nationality (including citizenship) or ethnic or national origins.**

In the context of tackling sectarianism within Northern Ireland, the WPG agrees that the following elements should include the above elements. As

⁴¹ Hate and the State: Northern Ireland, Sectarian Violence and Perpetrator-less Crime, Dr Robbie McVeigh, April 2017

⁴² NI Human Rights Commission ‘Parallel Report to the Advisory Committee on the Third Monitoring Report of the United Kingdom on the Framework Convention on National Minorities, February 2011 paragraph 59.

stated previously, we also support the Council of Europe definition of sectarianism.

We consider the approach in the Criminal Justice NI No 2 Order 2004 of only considering sectarian aggravation in relation to the grounds of 'religious group' as clearly too narrow an indicator to fully cover sectarianism and believe the above elements are better reflective of the groups impacted by the manifestations of sectarian hate crimes in Northern Ireland.

Question 7: The suggested definition of sectarianism does not include political opinion. Do you agree / disagree that political opinion should be excluded?

- **Agree**

The WPG agrees that political opinion should **not** be included within the definition of sectarianism and would like to highlight the following from the 2020 WPG submission:

'Political opinion' is an indicator that is used in relation to anti-discrimination legislation. The differences in anti-discrimination legislation and hate crime legislation are outlined in 13.9 of the consultation document. One of the main concerns with expanding the list of indicators to include 'political opinion' when dealing with hate expression is that **this would risk capturing legitimate political speech, and conflict with human rights obligations on freedom of speech such as ECHR Article 10.** Due to this risk of criminalising protected political freedom of expression, we do not believe that political opinion is an appropriate indicator for incitement to hatred and hate crimes legislation capturing expressive behaviour.

For example, when an LGBT+ rights protester at the 2017 Belfast Pride Parade held a "F*ck the DUP" placard, the PSNI initiated criminal proceedings and questioned the woman holding the placard under caution⁴³. This led to an investigation under the 'stirring up hatred' provisions in the 1987 Order despite the incident not relating to any of the protected grounds listed in the

⁴³ See <http://www.irishlegal.com/11011/woman-will-not-prosecuted-f-dup-placard/>.

legislation⁴⁴. In this example, the placard against the DUP was not grounds for prosecution as it was not directed towards a group of persons defined by religious belief, disability, race, sexual orientation, colour, nationality or ethnicity.

The WPG believes that including 'political opinion' is not appropriate for incitement to hatred, and would risk criminalising protected political freedom of expression. As highlighted above, there have already been examples here whereby criminal proceedings for stirring hatred up offences have been wrongly considered in relation to expression critical of NI political parties or their policies.

Question 8: Are there any other elements that you believe would assist defining sectarianism in the context of Northern Ireland's history? If yes, please include details.

See response to question 6 and 7. In addition, we would like to highlight the below information from the CAJ submission to the Hate Crime Review in 2020:

'The commitment to defining sectarianism in law set out in the TEO T:BUC strategy remains outstanding and can be taken forward in consolidated hate crimes legislation. The T:BUC strategy itself alludes to sectarianism as "threatening, abusive or insulting behaviour or attitudes towards a person by reason of that person's religious belief or political opinion; or to an individual as a member of such a group."

This is not a definition per se of sectarianism but rather a reference to a limited interpersonal manifestation of sectarianism, that appears to have been copied and adapted from provisions specifically to cover sectarian chanting in what became the Justice NI Act 2011. It is too narrow and has limited protected grounds to cover manifestations of sectarianism in hate crimes legislation.

The use of the above indicators also distinguishes the concept of 'sectarianism' (i.e. a specific form of racism found in NI and other

parts of the world) from the other meaning of sectarianism in law (in reference to political or other, e.g. trade union, factionalism.)

Our recommendation therefore is that Sectarianism is defined within the interpretation clause of consolidated legislation as a specific form of racism in NI, drawing on the relevant protected grounds in the Council of Europe standard.⁴⁵

Question 9: Whilst Judge Marrinan has suggested that a sectarian aggravator should be created and defined in a Northern Ireland and Christian context, do you consider any future changes to the hate crime legislation should include future proofing to include different denominations from non-Christian religions/faiths should evidence emerge to show this was required?

The sectarianism aggravator has been proposed in order to address the specific forms of sectarian hatred present within Northern Ireland, rather than forms of sectarianism happening in other countries, as highlighted by the UN and Council of Europe as a specific form of racism needing to be addressed. We support the sectarian definition within the Christian context, however, we also support the ability to incorporate future changes should the need arise to include other denominations from non-Christian religions.

Question 10: Given the prevalence of online communications that now exist within private dwellings, but have a reach outside those private dwellings, do you agree that the dwelling defence is no longer fit for purpose?

- **Agree**

The WPG agrees that the dwelling defence is no longer fit for purpose and should not be included in the Hate Crime Bill. We would like to highlight again our response to the 2020 review:

⁴⁵ CAJ (2020) Submission to the Independent Hate Crime Legislation Review:
<https://caj.org.uk/wp-content/uploads/2020/04/CAJ-submission-to-hate-crime-review-April-2020.pdf>

“The existence of the outdated “dwelling” defence which does not reflect the operationalisation of the internet,

This is an outdated form of legislation that does not reflect the modern reality of what is considered public. It is difficult to understand why stirring up hatred in a building is considered acceptable but the same act or expression of hatred outside of said building is an offence. Hateful acts, words or written materials displayed inside a dwelling can be as powerful in inciting hatred and violence towards protected groups. For example, following the tragic murder of Jo Cox by Thomas Mair, the police found significant extreme nationalist, racist and far right materials and literature in his home (or dwelling). This highlights the extremely dangerous thoughts and behaviours that lead to harassment, violence and, in some cases, murder.

As stated in elsewhere, the dwelling defence is outdated and should be removed. This defence is particularly problematic in the context of the online world, as it ignores the large levels of hate speech that happen daily if posting these is done within one’s dwelling. It would, therefore, seem logical to remove this defence.”

Question 11: Do you agree that repealing the dwelling defence and replacing it with a specific defence for private conversations would balance the need to protect individuals or groups of persons from accusations of stirring up offences, along with the need to ensure freedom of expression and debate of matters which are not, of themselves, threatening, abusive or insulting?

- Agree

Whilst it can be argued that one of the basic principles of freedom of expression and the right to a private and family life is the right to private conversations, careful consideration is needed in the context of online conversations. In defining a ‘public’ or ‘private’ conversation on social media, clarity is needed around whether being a member of a private Facebook group with thousands of members would still count for example.

Given the large rise in radicalisation of groups on the far-right, neo-nazi groups and those supporting dangerous views of nationalism within “private” groups or forums, this defence needs to be adequately compared to the ability for such “private” groups to incite hatred or harm. In addition, the rapid growth of the “Incel” movement, which involves members of an online community of men who consider themselves unable to attract women sexually (and are therefore **involuntarily celibate**), needs to be considered within this context given their hostile and often hate-filled views towards women. The previous online discussion forum (which is now suspended) ‘Incels.me’ provides the perfect example of how clear criteria is needed in any defence of private conversations, particularly in the context of online harm. Incel.me and its users involved a virtual community of men identifying as incels who see women as the cause of their problems and often use the forum for misogynistic hate speech and the incitement of hatred against women and girls⁴⁶.

Question 12: If a specific defence for private conversations was introduced, should consideration be given to defining the term “private conversations”?

- **Yes, absolutely.**

If a defence of “private conversations” is introduced, it is imperative that a tight definition is given, particularly in relation to conversations online.

The need for tight definitions of private conversations in the context of the online world was highlighted in the WPG 2020 submission:

In the Malicious Communication (Northern Ireland) Order 1988, it is an offence to send another person a letter or other article which conveys:

- (i) A message which is indecent or grossly offensive,*
- (ii) A threat; or,*
- (iii) Information which is false and known or believed to be false by the sender; or,*

⁴⁶ See more - Jaki et. al. (2019), ‘Online hatred of women in the Incels.me forum Linguistic analysis and automatic detection’, Journal of Language Aggression and Conflict, Volume 7, Issue 2, Nov 2019, p. 240 - 268.

(iv) Any other article which is, in whole or in part, of an indecent or grossly offensive nature, if his purpose, or one of his purposes, in sending it is that it should cause distress or anxiety to the recipient or to any other person to whom he intends that it or its contents or nature should be communicated.

These concepts have parallels with several aspects of the Communications Act 2003, however, as stated in the answer to the previous question, the reference in the Malicious Communications (Northern Ireland) Order 1988 to **“letter or other article” is unlikely to include electric forms of communication.** In Northern Ireland, offences relating to electronic communications need to fall under other provisions such as the Communications Act 2003. Crucially, the core of the offence lies in sending a communication that is indecent or grossly offensive; the impact on the victim or intended victim is not important.

In England and Wales, crimes prosecuted under the Malicious Communications Act 1988 have increased from 122 in 2005 to 897 in 2014. Whilst it is not possible to tell how many of these were online crimes; it is encouraging to see the increased awareness and prosecutions of malicious communications. In relation to the application of this legislation to cyber hate, there are some careful considerations needed around the wording that is applied. For a communication to fit under the MCA 1999, it must be found to be **‘indecent’** or **‘grossly offensive’**. The latter term is particularly problematic given that under the ECHR we do have the right to offend⁴⁷.

However, our right to freedom of expression does not justify us intending to cause distress or anxiety. It is argued that the wording of the Malicious Communications Act 1998 through ‘indecent’ or ‘grossly offensive’ is consistent with our freedom of expression, but that these terms seem outdated for modern problems and the issue of cyberhate. **For example, if an individual posts a grossly offensive statement on an online**

⁴⁷ Sunday Times v UK (No 2) [1992] 14 EHRR 229.

forum of like minded individuals, the law is unable to deal with this as the defendant has not intended to cause anxiety to those they were communicating to. Whilst the individual is posting grossly offensive content, the offence is not made out, and this highlights the constraints of the updated Malicious Communications Act 1988 in dealing with cyberhate in England and Wales.

With the Communications Act 2003, there has been a similar trend in increased application. In 2005 there were 355 prosecutions under section 127(1) of the Communications Act 2003, and in 2015 there were 1,175. However, there are similar issues with the application to cyberhate. The core of the offence in this case lies in the need to safeguard the public communications system from being abused; something that made much more sense when the communications system was publicly funded. Similar to the MCA 1988 example above, this is a conduct crime and the offence lies in the making of the communication irrespective if it is ever received by anyone.

This is broader than the MCA 1988, as there does not need to be a victim at all, nor do you need to show that the defendant intended to cause someone stress or anxiety. Under the CA 2003, you just need to show that the defendant sends a message that is grossly offensive, indecent, obscene or menacing. This would mean that a private conversation between two racists on holocaust denial would now be criminalised as it could be characterised as 'grossly offensive'.

Therefore, this has created a debate on the compatibility of the CA 2003 with Freedom of Expression. Unlike MCA 1988, it is difficult to see how the CA 2003 wording would be compatible with ECHR Article 10(2) in a democratic society. Therefore, we feel that the wording included in legislation dealing with cyberhate and social media needs to be clearer to give citizens the ability to regulate their lives. We agree that there needs to be a clearer articulation of the harm caused by cyberhate to ensure that offences are both clear and certain and come within the Article 10(2) exceptions. **Wording that is applicable in a modern-day context needs to**

be used in order to ensure that legislation can effectively deal with instances of cyberhate both now and in the future.

Question 13: If you agree that consideration should be given to defining the term “private conversations”, have you any proposals on the criteria for the concept of private conversations?

Please see response to question 12. We would also suggest the Department consults with human rights and hate crime legislation experts on this matter.

Question 14: Under the current arrangements, decisions on whether or not to prosecute stirring up offences can be taken by or with the consent of the DPP (meaning that a prosecutor who has a delegated authority to initiate proceedings can do so without the need to seek the Director’s personal consent). Do you agree this arrangement is an adequate safeguard in the consideration of stirring up offences by the Public Prosecution Service?

- Agree

Question 15: Do you agree that all decisions on whether or not to prosecute stirring up offences do not necessitate being taken personally by the Director of Public Prosecution?

- Agree

Question 16: The criminal justice system currently provides the opportunity for victims of hate crime to apply for special measures in that an application can currently be made by PPS to explain that a victim of hate crime is in fear/intimidated and requires special measures. Do you agree/disagree that these current provisions are sufficient for hate crime victims?

The WPG agrees with the recommendation from Judge Marrinan to put in place Special Measures for Complainants in criminal proceedings involving the proposed aggravated offences or stirring up offences. Judge Marrinan

recommends that the complainants in these types of cases should automatically be eligible for consideration of special measures when giving evidence, including the use of live links or screens. He also adds that to further protect these complainants no person charged with any aggravated or stirring up offence may cross-examine them in connection with the offence or in connection with any other offence with which that person is charged in the proceedings.

Judge Marrinan also mentions in his final report that he has serious concerns that many victims will be discouraged from giving evidence in cases where perpetrators (alleged or otherwise) choose to exercise a right to cross examine their victims in person. He notes that this can cause the victim significant distress and can sometimes amount, on occasion quite deliberately, to a continuation of the abuse.

In terms of whether these special measures are sufficient to support victims, we would recommend that the Department engages further with Victim Support NI as well as the Hate Crime Advocates across Northern Ireland to see whether additional measures should be implemented.

In the WPG 2020 response, we did also recommend special measures in relation to restrictions on media reporting of the identity of victims of hate crime cases and we would like to highlight these again for consideration:

'Restrictions should be permissible in instances where the victim faces the risk of being re-victimised. For example, outing a LGBTQ+ person by identifying them as a victim of a hate crime due to their sexual orientation or transgender identity can put them at greater risk of further homophobic, transphobic, biphobic crimes. It is important that a victim's consent is given to their identity being released in press reporting to ensure greater harm is not inflicted through sensationalist reporting.'

Further, within the context of Northern Ireland, it may be necessary to restrict reporting on the identity of victims of sectarian crimes due to evidence of intimidation and control within communities from perpetrators of these crimes. The complications of special measures to protect victims are pertinent in populations as small as Northern Ireland, which was identified in the recent Gillen Review into the law and procedures of serious

sexual offences in Northern Ireland⁴⁸. Regardless, measures to protect victims should still be introduced in appropriate cases and victims should be consulted throughout.'

Question 17: Do you agree/disagree that hate crime victims in criminal proceedings, involving the proposed aggravated offences or stirring up offences, should automatically be eligible for consideration of special measures when giving evidence?

- **Agree**

Question 18: Do you agree/disagree that victims in hate crime criminal proceedings, involving the proposed aggravated offences or stirring up offences, would benefit from protection from cross examination where the alleged perpetrators choose to exercise a right to cross examine their victims in person?

- **Agree**

As highlighted in the supporting documentation for this consultation, special measures and protection from cross examination by the alleged perpetrator could provide an important element in the support to victims of hate crime. Victim support is crucial otherwise a victim could drop out of the court process. If accepted then, special measures and protection from cross examination by the alleged perpetrator, and the degree of comfortability that they provide, would be huge for victims. It can be traumatic to be cross-examined by a person charged with an offence (especially when one considers the circumstances surrounding hate crime). It is imperative to protect victims from re-traumatisation so this provision would provide valid protection to help stop victims from becoming re-victimised.

Question 19: Do you agree/disagree that automatic eligibility to protection from cross-examination by the alleged perpetrator would support reporting of hate crime by victims?

⁴⁸ Report into the law and procedures in serious sexual offences in Northern Ireland, Gillen Review, April 2019, Paragraph 29

- **Agree**

We agree that the protection from cross-examination, alongside restrictions on reporting identities of victims, may support the reporting of hate crime by victims. However, victim-blaming is rife across Northern Ireland (for instance, our own research highlighted in section 3.3 of this response highlighted that 87.4% of women believe Northern Ireland has a problem with victim-blaming) and there are a number of other reasons for under-reporting of hate crimes.

We would like to highlight the response from our 2020 submission in relation to under-reporting:

'Sections 16.1 -16.4 of the consultation document provide extensive evidence on the under-reporting of hate crimes and a number of reasons as to why this is the case. This includes:

- (i) Previous experience of or lack of confidence in the criminal justice system,
- (ii) A perception that police and criminal justice agencies are not interested,
- (iii) A perception of how said agencies will respond,
- (iv) A fear of a breach of privacy and being exposed to further incidents,
- (v) A lack of knowledge of the reporting system,
- (vi) Language difficulties,
- (vii) Personal status, e.g. immigration status,
- (viii) Perception that is acceptable for affected groups to be treated this way,
- (ix) Concern of the implications of the action, e.g. for members of the LGBT+ community being "outed",
- (x) Fear of victimisation, retribution or reprisals,
- (xi) Concerns that no action will be taken.

These are not all the explanations but highlight just some of the reasons for under-reporting. These are concerns that exist not only in Northern Ireland, but in other regions too.

In order to improve levels of under-reporting, **effort must be put into understanding why victims have the above concerns.** Clearly, this is an area where detailed research is needed to

understand why hate crimes are under-reported in a Northern Ireland context. For this research to be effective, we believe **collaboration with the community-based organisations that support affected groups should be included in this.**

As hate crimes are not only under-reported, but on the rise in Northern Ireland, it is crucial that a significant body of work is undertaken to address the impact of hate crimes have on victims, such as those in the examples provided in 16.6. A multi-agency approach is needed alongside the criminal justice system to assist in improving hate crime reporting levels. This would also include civil society organisations that would be able to identify specific reasons for under-reporting and advocate for the improvements needed to increase the confidence of the affected groups. The community organisations across Northern Ireland have spent decades gaining the trust of the communities they represent and collaborating with these groups could lead to an improvement in reporting.

Creating robust laws that can be effectively applied to address all forms of hate crimes are crucial. This review is a huge body of work, and for any new legislation to be effective, collaboration with the third sector is crucial. In addition to this, **wide-spread training and educational programmes will be needed to support this and to send a powerful message that this type of behaviour is unacceptable in our society.** For example, age-appropriate education in schools on the harms of misogyny will hopefully reduce the number of offences, but also increase awareness among victims on the unacceptability of misogyny and the support available to them in reporting this and seeking justice.

Laws will remain symbolic, or worse, tokenistic, if the ability to fully implement them is not there. Collaboration, education, training and support is crucial to the success of any hate crime legislation review.'

Question 20: Do you agree/disagree that there is a potential detriment for abuse of the criminal justice system if the defendant is unable to cross examine the hate crime victim?

- Disagree

Given vast levels of under-reporting of hate crimes, as well as the extremely small numbers of hate crimes that make it through to the criminal justice system in the first place, it is extremely unlikely that simply protecting victims from cross-examination by their alleged abuser would lead to abuse of the criminal justice system. It is rare for victims to get through the criminal justice system in the first place, therefore it is unlikely this special measure would lead to a sudden influx of people looking to abuse the criminal justice system.

Further, there is no suggestion that the hate crime victim will not be cross-examined at all - rather that such a cross-examination must not come at the hands of a person alleged to have abused them. There is precedent for this in cases of alleged domestic abuse and the court has the power to specify this in some family proceedings cases, too⁴⁹. These provisions were brought in to reflect the nature of the specific relationship between the two individuals involved in the case, and to defuse difficulties for the alleged victim. It is never the intention to prevent cross-examination; it is the expression of a duty of care that the legal system must have to those who avail of it, and it is expressly in the interests of justice that these kinds of provisions must be made.

⁴⁹ <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/cross-examination-in-the-family-court-factsheet>

Exploring misogyny/ transmisogyny in hate crime law

Question 21: Of the options outlined as proposals for addressing violence against women and girls, which is your preferred option, if any (please tick one):

- ***Sex/Gender as a protected characteristic***
- ***Misogyny (and transmisogyny) as a statutory aggravating factor***
- ***Misogyny (and transmisogyny) as a stand-alone crime/specific offence***
- ***No recognition of sex/gender for the purposes of aggravated offences and enhanced sentencing***
- ***Other - X***

The WPG is concerned with the wording of this question which makes the above options seem as either/or when in reality, misogyny (and transmisogyny) as a statutory aggravating factor and misogyny (and transmisogyny) as a stand-alone offence can happen simultaneously - as is recommended by the Scottish Working Group on Misogyny and the Criminal Justice System (highlighted in section 4.1).

As it is clear that the Department has only considered gender as a protected characteristic in a gender-neutral sense, despite the lack of any evidence of men and boys being victims of hate crimes due to their gender, the WPG is compelled to instead advocate for **both** of the following:

- 1. Misogyny (and transmisogyny) as a statutory aggravating factor and,**
- 2. Misogyny (and transmisogyny) as a stand-alone crime/specific offence.**

Further information on the Scottish Working Group recommendations is available throughout this response, and we would strongly support these recommendations being implemented in Northern Ireland. In addition, as transgender identity has been accepted as a protected characteristic, this would suggest tackling transmisogyny has already been accepted by the Department which the WPG supports.

Crucially, we have consistently called for protected characteristics to be connected to the ideologies that fuel the motivations for hatred against them.

As it has not been possible for the Department to recognise the need to protect women and girls on the basis of their gender in a non-gender-neutral way, we instead advocate for stronger action to be taken specific to misogyny as a means of addressing misogynistic hate crimes against women and girls. It is surprising that the Department is then considering misandry, which is effectively turning this legislation on its head to be weaponised against the marginalised group it should protect (women and girls).

Given the vast levels of violence against women and girls in our society, and increasing levels of misogynistic hate crimes against women through the growth of “incel” movements and normalisation of online abuse, it is really disappointing that we are still trying to prove to the Department of Justice that it is necessary to do something about misogyny.

We must be able recognise that hate crime is most often directed toward already stigmatised and marginalised groups. As such, **it is a mechanism of power and oppression, intended to reaffirm the precarious hierarchies that characterise a given social order.** In this context it is vital that we recognise that hate crimes based on gender are targeted at women and girls, including transgender women and girls, and this definition should specify that misogyny, specifically, is the issue that must be addressed.

Incorporating misogyny into hate crime legislation will, at least in principle, ensure that trans women are also able to report misogynistic hate crime. Including gender, alongside ‘transgender identity’, provides protection for individuals whether they are victimised because of one or both of these things. For instance, many trans women will experience hate crimes because they are trans, but also because they are women; it is important to recognise both experiences and be able to report hate crime across multiple characteristics where these overlap.

In addition to this, many crimes motivated by hate are motivated by more than one “type” of hate; for instance, they may be motivated by both homophobia and misogyny, or both race and misogyny. Including misogyny as a category can capture the intersectional nature of the issue and the true nature of the harm caused to the victim of the crime. We welcome the recommendation from Judge Marrinan to incorporate intersectionality and hope this will be embedded throughout the Hate Crime Bill.

In jurisdictions that have already taken this approach e.g. in Nottinghamshire County in England, it has been a success – it greatly increases the confidence of victims in the police and in surveys the majority of respondents who brought complaints to police reported feeling like their concerns were taken seriously and that they would encourage others to report (even if their case made it no further through the system). This itself is a significant result, given that a fear of being mocked, derided or dismissed is one of the main reasons why victims don't report elsewhere. This tells us what we have long suspected: it means a lot to be seen, heard and taken seriously.

It is notable that the Scottish Working Group do not recommend the introduction of sex or gender as a protected characteristic in hate crime law. Rather, they advocate for taking a targeted approach, aimed at specifically addressing hate crime against women and girls, motivated by misogyny. To reiterate what the Scottish Working Group are calling for in their recent report on misogyny in hate crime legislation, they recommend creating a Misogyny and Criminal Justice (Scotland) Act which would:

- 1) Create a new Statutory Misogyny Aggravation
- 2) Create three new offences, specifically to tackle:
 - d) Stirring Up Hatred Against Women and Girls
 - e) Public Misogynistic Harassment
 - f) Issuing Threats of, or Invoking, Rape or Sexual Assault or Disfigurement of Women and Girls online and offline.

Similarly, the Law Commission argued against the introduction of 'sex or gender' as a protected characteristic in hate crime law in their recent report on Hate Crime laws.⁵⁰ In their report, the Law Commission raised concerns that "crimes connected with sex or gender characteristics raise unique issues that are not present to the same extent in relation to the existing five protected characteristics." The two contexts in which the Commission found the inclusion of 'sex or gender' in hate crime law most problematic were sexual offences and domestic abuse.

⁵⁰ Law Commission (2021) 'Hate Crime Laws - Final Report' Available at: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2021/12/Hate-crime-report-accessible.pdf>

This issue was also highlighted by the Scottish Working Group on Misogyny and Criminal Justice. The Working Group recommended the introduction of a statutory misogyny aggravator. They argue that this should not apply to crimes which are already considered inherently misogynistic, such as domestic abuse, rape, sexual assault and other sexual offences. Rather, they argue that it should apply to all other crimes such as “assault, criminal damage and offences such as threatening behaviour... so long as there is evidence of misogyny.” More detail on this can be found in section 4.1 of this response.

Instead of including ‘sex or gender’ as a protected characteristic in hate crime legislation, the Law Commission recommend a number of other strategies for tackling violence against women and girls in the UK. For example, the Law Commission recommends that:

1. Government should conduct further work on whether various forms of violence against women could be addressed by other legal mechanisms.
2. A government review of the need for a **specific offence** to tackle public sexual harassment, which would likely be more effective than adding sex or gender to hate crime laws.
3. Extending the offence of stirring up hatred to cover stirring up hatred on the grounds of sex or gender. This would help to tackle the growing threat of extremist misogynist “incel” ideology, and its potential to lead to serious criminal offending.

The Law Commission accepts that crime against women and girls is a widespread and serious problem that needs to be addressed somehow in law. However, they disagree that the most effective way to do so is by including ‘sex or gender’ as a protected characteristic in hate crime law.

We would also recommend the Department considers the full WPG submission to the DOJ/DOH Domestic and Sexual Abuse Strategy and TEO VAWG Strategy Call for Views, to understand the urgent need to robustly address men’s violence against women and girls in Northern Ireland. We also want to again highlight the evidence we included in our 2020 submission to the Hate Crime Legislation Review:

*‘Misogyny is endemic in society both locally and internationally.
New analysis released by the United Nations Development*

Programme (UNDP)⁵¹ shows how social beliefs obstruct gender equality. **Nearly 90% of all people have a ‘deeply ingrained bias’ against women.** Violence against women is driven by gender norms that normalise and justify gender inequality and violence. This pervasive bias and prejudice against women held by both men and women worldwide must be tackled in order to prevent and respond to gender-based violence.

A report from the House of Commons Women and Equalities Committee⁵² found evidence of ‘routine and sometimes relentless’ harassment of women and girls on the street, in parks, on public transport, in bars, clubs and universities, and online. Surveys in the report found that 64% of women, including 85% of 18-24-year olds had experienced unwanted sexual attention in public places with 35% reporting unwanted touching. More than 60% of girls and young women did not feel safe walking home and growing numbers said they felt unsafe online. Incidents ranged from wolf-whistling to unwanted sexual comments, groping and sexual rubbing on public transport, upskirting, rape threats and men exposing themselves.

Despite the prevalence of this kind of behaviour, society continues to underplay harassment and violence against women and girls. **Normalisation of this type of misogynistic behaviour has made it almost invisible in everyday life so that many people fail to recognise it. This makes it even more difficult to see the full nature and pervasiveness of this misogyny.**

“Part of the idea of ‘patriarchy’ is that this oppression of women is multi-layered. It operates through inequalities at the level of the law and the state, but also through the home and the workplace. It is upheld by powerful cultural norms and supported by tradition, education and religion. It reproduces itself endlessly through these norms and structures, which

⁵¹ Tackling Social Norms, A game changer for gender inequalities, UNDP, March 2020
http://hdr.undp.org/sites/default/files/hd_perspectives_gsni.pdf

⁵² Sexual harassment of women and girls in public places, Women and Equalities Committee, House of Commons, October 2018
<https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/701.pdf>

*are themselves patriarchal in nature; and thus it has a way of seeming natural or inevitable, or else, in a liberal context, it is obscured by piecemeal advances in gender equality.”*⁵³

While research shows that sexual harassment is a huge problem many women do not report such incidents. Reporting levels for misogynistic crimes are low and many of these crimes go unreported. There are many reasons why this might be the case, not least of these the ‘normalisation’ of these incidents in wider society. The impact of these incidents on victims is often long-term with many victims changing their behaviour as a consequence, feeling the impact on their freedom of movement in public places and increasing their fear of crime. That is why it is so important that action needs to be taken on this issue. Northern Ireland is a very patriarchal society.

*“While the Good Friday Agreement did undoubtedly provide the potential for a new era of gender relations, 20 years on Northern Irish society exhibits all the trademarks and insidious characteristics of a patriarchal society that has yet to undergo a genuine transformation in gender relations.”*⁵⁴

*The Troubles have had a profound impact on Northern Ireland and continue to do so long after the ceasefire. Militarism has permeated Northern Irish society so that “violence and its effects have worked their way into the very fabric of society and become part of normal life so that (people) become accustomed to the routine use of violence to determine political and social outcomes.”*⁵⁵ *This normalisation of violence and inequality is an important consideration for Northern Ireland emerging from a conflict with an armed patriarchy.*

⁵³ The age of patriarchy: how an unfashionable idea became a rallying cry for feminism today, Charlotte Higgins, The Long Read, The Guardian, 22 June 2018 <https://www.theguardian.com/news/2018/jun/22/the-age-of-patriarchy-how-an-unfashionable-idea-became-a-rallying-cry-for-feminism-today>

⁵⁴ Gendering the ‘post-conflict’ narrative in Northern Ireland’s peace process, Niall Gilmartin, Trinity College Dublin, December 2018

⁵⁵ J. Darby and R. McGinty, The Management of Peace Processes: Coming Out of Violence Project, Darby and McGinty, (London: Macmillan 2000) p.260

The now infamous ‘rugby rape trial’ has showed the extent to which misogyny is embedded and accepted in our society. The case and its aftermath revealed chauvinistic and misogynistic views about women. The trial forced many awkward conversations around the issues of rape, misogyny and attitudes towards women in Northern Ireland. The lack of legislation to deal with misogynistic crime and the lack of associated quantitative evidence means that its true nature and extent cannot be adequately captured. Available statistics do not illustrate the pervasiveness of this issue and can only give a snapshot of the problem here:

- *In 2019 there were 31,705 domestic abuse incidents recorded by the police in Northern Ireland, an increase of 399 (1.3%) on the previous 12 months and one of the highest 12 month periods recorded since the start of the data series in 2004/05.⁵⁶*
- *In 2019 the number of domestic abuse crimes recorded by the police reached 18,033 an increase of 2,322 (14.8%) on the previous 12 months and the highest of any 12-month period recorded since 2004/05.⁵⁷*
- *From October 2018 to September 2019 the PSNI recorded 2,423 sexual offences and 1,023 reports of rape.⁵⁸*
- *More than a quarter of students at universities or colleges in Northern Ireland have experienced unwanted sexual behaviour during their studies however only 5% had reported this to the police.⁵⁹*
- *There have been 1,220 reports of online violence towards women in Northern Ireland since 2015 (the total could be even higher than the figures suggest as not all crimes specified the gender of the victim). In 2017-18 the PSNI saw*

⁵⁶ Domestic Abuse Incidents and Crimes Recorded by the Police in Northern Ireland, PSNI Statistics Branch, February 2020 https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/domestic-abuse-statistics/2019-20/q3/domestic-abuse_bulletin-dec-19.pdf

⁵⁷ Ibid

⁵⁸ Police Recorded Crime in Northern Ireland, PSNI Statistics Branch, October 2019 https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/2019/september/crime_bulletin-sep-19.pdf

⁵⁹ kNOWMORE! NUS-USI Student Consent Survey, March 2019 <http://nus-usi.org/wp-content/uploads/2020/01/kNOWMORE-Report.pdf>

the highest annual figure ever recorded with 433 women feeling so threatened they reported to the police – 30 of these involved death threats with another 394 constituting harassment.⁶⁰

Nottinghamshire Police made history in 2016 by becoming the first force in the UK to recognise misogyny as a hate crime. An evaluation report⁶¹ into the policy highlighted a number of important findings which must be considered as part of this review:

- **Normalisation of misogynistic hate crime** - “Misogyny hate crime is highly prevalent but still significantly under-reported, and continues to be so, two years after the inception of the policy in Nottinghamshire. This is partly due to the ‘normalisation’ of these incidents and people’s lack of knowledge that the policy exists.” “Within certain contexts, such as the night-time economy, groping and sexual assaults are commonplace and normalised.”
- **Lack of knowledge of the existence/detail of the policy** – “Once the focus group/interview participants who did not know about the existence of the policy had it explained to them, they thought it should definitely be rolled out nationally.” “Of those members of the public who knew of the existence of the policy, most were unaware of what the policy covered, exactly how to report the crime if it happened to them, and what would happen to them if they did report.”
- **Confusion over terminology including what ‘misogyny’ and ‘hate crime’ mean** – “Members of the public often struggled to know what Misogyny Hate Crime actually meant. Members of the public and the police viewed the

⁶⁰ <https://www.itv.com/news/utv/2018-12-18/1-220-reports-of-online-violence-towards-women-in-ni/>

⁶¹ Misogyny Hate Crime Evaluation Report, University of Nottingham, Nottingham Trent University, June 2018

<https://www.nottinghamwomenscentre.com/wp-content/uploads/2018/07/Misogyny-Hate-Crime-Evaluation-Report-June-2018.pdf>

term 'misogyny' as too elitist/academic. Members of the public also struggled to define 'hate crime'."

Results from the evaluation showed there is clear support for the policy from men and women in the general public, as well as victims who have reported. *An important finding was that victims who reported did so because the policy change sent a very clear message to them that they would be taken seriously if they came forward and this often outweighed the desire for a conviction. The overall recommendations call for the policy to be rolled out nationally alongside publicity to increase reporting and education to help change behaviours.*

*Fawcett Society research has shown that **gender is the most common cause of hate crime for women.**⁶² In releasing this data Fawcett Society Chief Executive Sam Smethers said:*

"We have to recognise how serious misogyny is. It is at the root of violence against women and girls. Yet it is so common that we don't see it. Instead it is dismissed and trivialised. By naming it as a hate crime we will take that vital first step."

Women's Aid have said that:

"Domestic abuse does not just happen in a cultural vacuum. The everyday sexism that women experience daily – from the catcalls on the street through to being groped and sexual harassed in public places – creates a culture where it is ok for men to demean women. In short, it normalises abuse."⁶³

The rise of the #MeToo movement has helped to show how widespread sexual harassment, assault and sexual crime is. It has also helped to create a climate which fosters increased reporting of these crimes and one where it is more likely that offenders are held accountable for their actions. However, this is just the start and there is much more work to be done to tackle the huge

⁶² <https://www.fawcettsociety.org.uk/News/new-fawcett-data-reveals-gender-is-most-common-cause-of-hate-crime-for-women>

⁶³ Ibid

problem of sexual harassment and assault that exists in society today.

We therefore believe that recognising misogyny as a hate crime is an important step in making progress on the extent of this problem, in ensuring that it is taken more seriously and in providing victims with greater confidence in coming forward. It will also provide benefits in terms of statistical recording which is crucially important. Proper recording of incidents and the availability of data on these crimes will help to determine the size and nature of the problem and the actions that need to be taken in this area.

Legislative reform on this issue however is only the beginning of the process. **Any new law is only as good as how it is understood, implemented and used.** In order for it to be effective it must be supported by adequate resources so that the police and the criminal justice system have the necessary information and training to properly recognise misogyny and to enforce the law. In addition, there is a need for a public awareness campaign so that everyone understands the law is there, how to use it and the implications for breaking it.

Online Abuse against Women

The issue of online abuse against women is extremely concerning. It has prompted the creator of the internet, Sir Tim Berners-Lee, to say that **“the web is not working for women and girls.”**⁶⁴ He said that while the world has made important progress on gender equality he is **“seriously concerned that online harms facing women and girls – especially those of colour, from LGBTQ+ communities and other marginalised groups – threaten that progress.”** Sir Tim said that “for many who are online, the web is simply not safe enough” and that online abuse “forces women out of jobs and causes girls to skip school, it damages relationships and leads to tremendous distress. Relentless harassment silences

⁶⁴ Why the web needs to work for women and girls, Sir Tim Berners-Lee, March 2020 <https://webfoundation.org/2020/03/web-birthday-31/>

women and deprives the world of their opinions and ideas, with female journalists and politicians pushed off social media and bullied out of office.”

Judge Marrinan has acknowledged the issue of hateful abuse online as part of this Review citing the abuse that many women politicians both in Westminster and locally in the Northern Ireland Assembly have to endure often on a daily basis.

This is a significant issue as it has led to the resignation of a number of women MPs in recent years with obvious impacts for gender equality and ensuring that the voices of women are at the table. Heidi Allen stood down because of the “nastiness and intimidation” she faced as a politician. Luciana Berger said the abuse she faced made her “physically ill” so much so that she had to work with the police and security for her personal safety. She described the abuse as “personal and sometimes very extreme in its nature. Sometimes its pornographic, sometimes violent, often very misogynistic.”

Online abuse of some of Northern Ireland’s female politicians has prompted calls to establish a cross-party working group on misogyny. Cara Hunter, SDLP MLA and Deputy Mayor of Derry has been subjected to near-constant “sexual and violent messages and threatening voicemails.” DUP MLA Carla Lockhart said that online abuse was something she had become accustomed to. She explained “any time there’s a picture of me on Twitter, no matter what it’s connected with, I will have someone picking on my appearance.”

There is a real need for action to prevent these online behaviours. It is important to have the best people involved in Government representing their communities. It is not possible to achieve this if **women feel excluded from these positions due to this type of misogyny and online hate.** Women make up half the population and their rights and interests cannot be adequately protected unless women are involved in positions of power and in Government. Misogynistic behaviour of this kind limits women’s representation and visibility not just in politics but in other spheres and it is therefore vital that this is tackled. This

Review provides an important opportunity for action to be taken on this issue.

Question 22: Many of the issues surrounding misogyny are closely linked to sexual offences and domestic abuse. If misogyny is considered for inclusion as a hate crime statutory aggravator, do you agree/disagree that domestic abuse and sexual offences be excluded?

- Disagree - with exemptions

We would like to endorse the response from our members, Women's Aid Federation Northern Ireland, in their response to this question:

"misogyny creates the environment that allows violence against women to flourish, but in domestic abuse & sexual offences situations, the vast majority of the time, the intentional and persistent abuse is motivated by the perceived power by the abuser in intimate partner or known perpetrator situations. Our concern would be that the perception of this statutory aggravator being applied in some cases, but not others, yet abuse is being committed will create a hierarchy which dismiss the abuse of a perpetrator as 'well he did it because he hates women' and that only those who openly hate women are 'true' abusers.

We do however believe that crimes against women & girls perpetrated by strangers would often be a concentration of misogyny within the perpetrator can be quantified as the key motivator of their actions in committed vile acts against women. A woman who is a stranger to the perpetrator is perceived literally as she stands: a woman, where the perpetrator has no knowledge about her but has targeted her literally because she is a woman ... it is therefore our recommendation that misogyny as a hate crime statutory aggravator should not be applied in intimate partner/known perpetrator crimes such as domestic abuse but should be applied in unknown perpetrator situations as misogynistic attitudes would be dominant motivator of the crime."

Misogyny is a motivator or aggravating factor in many crimes, including violent crimes like rape, domestic abuse, assault and murder, as well stalking, sexual harassment and more. With that said, we agree with Women's Aid's argument that this is not usually the appropriate prosecutorial approach to take in cases of domestic abuse.

We would like to again highlight the recommendations from the Scottish Working Group in section 4.1 of this response, and in response to question 21 of this consultation. The Working Group recommended the introduction of a statutory misogyny aggravator. They argue that this should not apply to crimes which are already considered inherently misogynistic, such as domestic abuse, rape, sexual assault and other sexual offences. Rather, they argue that it should apply to all other crimes such as "assault, criminal damage and offences such as threatening behaviour... so long as there is evidence of misogyny."

We also take on board the arguments made by the Scottish Working Group on Misogyny and Criminal Justice regarding the categorisation of Domestic Abuse, Domestic Violence and Sexual Violence on the grounds that these are widely understood to be misogynistic crimes already. Although we agree with the working group on many issues, in our specific society in Northern Ireland there is no evidence that these issues are widely regarded as issues that stem from misogyny; only very rare instances - for example the murder of Ashling Murphy by a stranger in a public space - are understood through that lens. Government departments remain reluctant to use this framing, to say nothing of how it is understood in courtrooms.

We also urge clarity regarding the prosecution other crimes that may fall under this framework - stalking for instance - which overlap a great deal with domestic abuse and coercive control and which may cross the threshold to be prosecuted as a hate crime without their association with domestic abuse; this would be useful for prosecution services and indeed for victims to understand.

In addition categories like "sexual offences" - often reduced e.g. in the Department of Justice and Department of Health Strategy to "sexual abuse" a title that may exclude many survivors of sexual violence - requires clarification. This category encompasses a wide range of offending behaviour, not all of which should necessarily be excluded from the scope of this legislation, and that line must be made clear lest it become legally unworkable. As a result, it must be made clear how this may work in practice and offer absolute clarity

that not all sexual offences will be excluded, specifically when they are targeted towards women who are strangers.

We agree with Women's Aid that the fulchrum of this issue lies in the use of power: "However, within the context of domestic & sexual abuse offences, we would strongly emphasise that crimes of this nature are statistically of an intimate partner or known perpetrator situation, where often power over the victim, not solely perpetrator's hatred of women, is the key factor of the crime.⁶⁵" However while domestic abuse necessitates an existing relationship between victim and offender, sexual violence does not. This does not make the offence greater or lesser, but it does mean that it is different, therefore we would argue that not all sexual offences should be outwith the scope of this legislation.

With all of that said we commend the Women's Aid response on this with regards to domestic abuse in particular; primarily we must avoid creating hierarchies of victim on the basis of whether or not we can prove that there is evidence of their misogyny. From their submission to this Consultation:

*"A woman who is a stranger to the perpetrator is perceived literally as she stands: a woman, where the perpetrator has no knowledge about her but has targeted her literally because she is a woman. Perpetrators of domestic abuse chose their victims based on the control they can have over the victim and not solely because they are women, which is often the key motivator in the case in stranger perpetrator crimes against women & girls."*⁶⁶

Sometimes, such as in the case of violent incel attacks and attacks on women who are strangers, it is self-evident that the motivation is misogyny. Leaving aside that there is often abundant evidence, such as in the cases of Elliot Rodger or Alek Minassian⁶⁷, but because in these cases we know that the victims were chosen exclusively on the basis of the victim's status as a woman. These kinds of attacks are so self-evidently rooted in misogyny that they almost need no argument, however we also believe that the Department for Justice work alongside TEO in their development of the VAWG Strategy to ensure adequate focus on these kinds of incidents and especially on the online

⁶⁵ Women's Aid response to this consultation (2022) p.8

⁶⁶ Women's Aid response to this consultation (2022) p.9

⁶⁷ BBC (2018) Elliot Rodger: How misogynist killer became 'incel hero'
<https://www.bbc.co.uk/news/world-us-canada-43892189>

cultures that spawn them. This would aid with a better understanding of these crimes when they happen, but also with prevention of the crimes themselves and the de-radicalisation of young people who have become entangled with the movement.

Last August, following the murder of five people by Jake Davison, a self-described “incel”⁶⁸ in Plymouth, England, police and assorted elected representatives quickly declared that the incident was not related to terrorism and to date the serious consideration of the role misogyny played in that incident has been largely confined to the media and feminist organisations, not Government departments. Likewise, after the man responsible for attacking numerous women with his fists and a knife in Belfast in 2020 was brought to court, he offered his apologies to his victims⁶⁹ but no further explanation of his motivations, nor was any serious conversation about the issue pursued.

We must collectively face the reality that this phenomenon is happening, not only when it erupts in violence, but before that too. Laura Bates, who writes about misogyny broadly but has written a book that includes undercover work carried out to understand the ‘incel’ phenomenon, writes:

“In the small flurry of online articles that has emerged about incel groups, particularly in the wake of mass killings, there are two clear, polarised groups. The community is either characterised as darkly violent and misogynistic, dangerously promoting violence against women, or as a mischaracterised and disadvantaged group of lonely men, widely smeared by association with a tiny number of bad apples, who could exist in any movement. The reality, which almost nobody seems to have confronted, is that both stories are true. That extended exposure to the violent rhetoric of the most extreme ideologues slowly desensitises and draws in other members, too. And it is this combination that is

⁶⁸ BBC (2021) Incels: Inside a dark world of online hate: <https://www.bbc.co.uk/news/blogs-trending-44053828>

⁶⁹BBC (2020) Man ‘apologises’ after assaults on women: <https://www.bbc.co.uk/news/uk-northern-ireland-54583266>

perhaps most explosive of all"⁷⁰.

As well as recommending that **these kinds of offences, where the victim is chosen solely on the basis of her gender, are included**, but that domestic abuse is not, we also recommend that **particular attention be paid to the growth of online hate movements against women, especially the ‘incel’ movement, in the VAWG Strategy**.

Question 23: Whilst evidence demonstrates the disproportionate experience of females, if misogyny is considered for inclusion in hate crime law, to ensure fairness in legislation, do you agree/disagree an act of misandry should also be considered to recognise the experience of male victims?

- **Disagree**

This is such an outrageous suggestion that it borders on offensive.

Given the vast levels of men and boy's violence against women and girls in Northern Ireland, which is considered the most dangerous place in Europe to be a woman, it is extremely disheartening to see the Department of Justice even entertain such a ridiculous recommendation.

This in itself is an example of the harmful nature of gender-neutral policy making in Northern Ireland, where there is a recurring and stubborn reluctance to even acknowledge there are times where women and girls are being negatively impacted by the actions of men and boys, without trying to make some matching category to protect men and boys from a non-existent crime. It is vitally important that the Department understand, again, the fact that Judge Marrinan is unequivocal in the view that hate crime is carried out with the express intention to "reaffirm the precarious hierarchies that characterise a given social order". There may be, in a parallel world or on another planet, a social order where women are systematically advantaged over men - but it is not this one.

⁷⁰ Laura Bates, Men Who Hate Women: the extremism nobody is talking about (Simon and Schuster, 2020) p.58

To understand this further, we need to remember that the existing laws cover hate crime on the grounds of disability, for example, but the law does not allow for a person to be the victim of hate crime on the grounds of ability, or the absence of disability. While, again, it might be possible to imagine a world where the able-bodied were routinely discriminated against, that is not the circumstances in which we live and the purpose of this exercise is to write workable and practical legislation to address things that are actually happening, not to engage in creative writing.

It should be possible to address the deeply ingrained systemic levels of misogyny that exist in Northern Ireland without minimising this by including a similar provision for men and boys, apparently just for the sake of it and without any evidence for the need for it. We would advocate for specific safeguards in the Hate Crimes Bill which are linked to international standards such as CEDAW and the Istanbul Convention, which would assist in preventing the abuse of provisions and making “counter” provisions such as misandry in the absence of any evidence to support it.

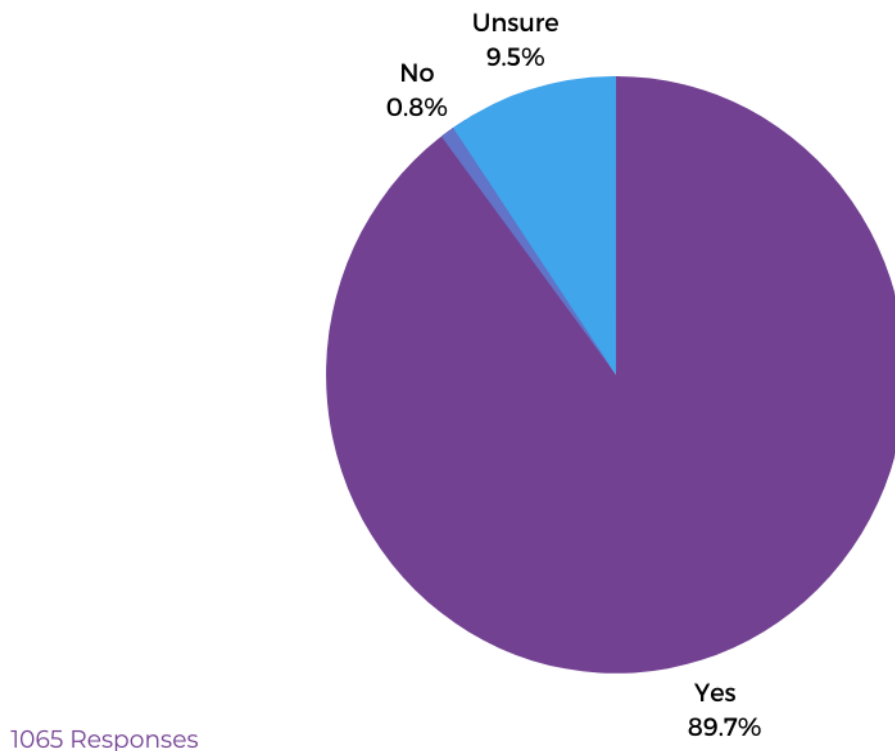
We would like to highlight again the points we made in section 4.5 in relation to the harm of taking a “gender neutral” approach:

‘This approach would be based on the problematic idea that, rather than protecting women and girls from hate crime they already experience as a result of their gender, men and boys should be equally protected from hate crime that they could potentially experience in the future, as a result of their gender. **Existing tangible threats to women and girls’ safety should not be treated with equal weight to potential and unlikely threats to men, based on non-existent evidence regarding gender-based hate crime towards men and boys.**’

This is a perfect example of where equality legislation is being turned on its head and used against a marginalised group (women and girls). We would like to, again, remind the Department of the findings from our research with over 1,000 women in Northern Ireland in relation to men’s violence against women and girls, and hope this is used to support **evidence-based legislation making**. There is zero evidence of hate crimes happening towards men and

boys in Northern Ireland because of their gender, and it would set an extremely dangerous precedent for the Department of Justice to make legislation without the evidence to support it, just because it is reluctant to address a specific form of crimes *against* women and girls:

Q12. Do you believe Northern Ireland has a problem with attitudes of sexism and misogyny?



- **91.2%** of women think that Northern Ireland has a problem with men's violence against women and girls.
- **89.7%** of women believe Northern Ireland has a problem with attitudes of sexism and misogyny
- **95.2%** think that reducing levels of violence against women and girls requires focusing on changing men and boy's behaviours and actions.
- **95.8%** of women think that a Strategy on violence against women and girls should address misogynistic hate crime
- **83%** of women have been impacted by men's violence against women and girls but only **21.4%** reported this to the police.

- **92.3%** think that there are barriers to reporting men's violence against women and girls.
- **86.8%** of women think that there needs to be a review of how the justice system treats victims and survivors of men's violence against women and girls.
- **87.4%** of women believe Northern Ireland has a problem with victim-blaming

We would also like to highlight some of the qualitative responses we received to this anonymous survey which highlight the real-life impacts of men's violence against women and girls and the need to recognise misogyny as a motivator of hate crime:

"It has impacted my confidence, the way I view myself and how I live my life. I'm not sure what age I was when it first happened as I can't remember a time in my life when it wasn't happening."

[In response to the question: What do you think are the root causes of sexism, misogyny, victim-blaming, rape myths and rape culture?]

*"The low power base and voice that woman have had for generations here. **That breeds misogyny and allows it to go unchecked and become endemic within almost all institutions.** All victim blaming, rape myths, culture etc stem from deeply knitted in misogynism. Within this both women and men can contribute to this as they have been so heavily (and unchallenged) influenced for generations."*

*"Misogyny is rampant on social media and in porn industry and it's all too easily accessed [by] young boys and girls. Internet safety needs to improve. **Misogyny is also ingrained in the culture in NI** and too many male-dominated sports/church and cultural organisations."*

***"Institutional misogyny.** The level of sexual abuse and misogyny cases within the PSNI and their attitude to survivors also exasribates the situation."*

"Fundamentally, women are not respected, their rights ignored and their humanity is not acknowledged. Women globally are

*treated as second class citizens. Most men don't acknowledge our humanity and our history has, with the aid of religion, been rich with the abuse of women and denial of rights. It is clear from the ubiquitousness of pornography, domestic abuse and rape, as well as the more recent persecution of women standing for their rights and the erosion of women's boundaries and spaces that **misogyny runs in every element of society.***

[In response to the question: What sort of measures do you think are necessary to change men and boy's actions?]

*"Mandatory, standardised RSE education that isn't controlled by what an individual Board of Governors is willing to teach. This is the only way we are truly going to break the cycle of VAWG. Also **making an offence of misogynistic hate crime.** Many attacks on women and girls are because they are women and girls, and this needs to be dealt with, as does misogynistic hate speech."*

[In response to the question: What sort of changes would you like to see within the justice system in relation to men's violence against women and girls?]

*"Police attitudes, access to the legal system, **misogyny becoming a hate crime**, training for police, legal profession and judges."*

*"Help needs to be offered to survivors of **misogynistic hate crimes** need to be given support from social workers, therapists and community."*

6. Concluding Remarks

In summary, the WPG position is that:

- (1) Misogyny (including transmisogyny) should be considered a statutory aggravator and,
- (2) We also support the Scottish recommendation to create a standalone misogyny offence
- (3) A gender-neutral approach to hate crime law must be avoided when trying to address hate crimes against women and girls as this will lead to hate crime legislation being a tool used against marginalised groups

The WPG understands that simply including misogyny as a motivator of hate crime in legislation will not necessarily prevent the hate crime from happening. However, this would be demonstrably helpful in underlining the prevalence and seriousness of these crimes. It would mean that we could yield statistics on these crimes to understand their true extent and impact, and would facilitate the provision of support to victims. Further, recognising misogyny as a motivator of hate crime in law could also encourage the introduction of educational efforts aimed at prevention work. Updated hate crime legislation should also include the creation of a legal framework that recognises the importance of intersectionality, to adequately reflect the experiences and identities of victims and motivations of perpetrators.

“Treating as equal those who are not yet equal only furthers inequality.”

- Scottish Working Group on Misogyny and Criminal Justice⁷¹.

For any questions or queries relating to this submission, please contact:

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⁷¹ Baroness Helena Kennedy QC et. al. (2022), ‘Misogyny - A Human Rights Issue’, Working Group on Misogyny and Criminal Justice, Scottish Government, page 7:
<https://www.gov.scot/publications/misogyny-human-rights-issue/>